3-28-2013

Telford v. Smith County Texas Appellant's Reply Brief Dckt. 39878

Case No. 39878-2012

BEFORE THE IDAHO SUPREME COURT

HOLLI TELFORD

Plaintiff/ Appellant

v.

SANDRA COPELAND, ADMITRA MILLS, JEANETTE HARMON, CODY KELLEY, PAUL KELEY JR., THE ESTATE OF PAUL KELLEY SR; SMITH COUNTY TRUSTEE; SMITH COUNTY; TAX ASSESSOR GARY BARBER; ARTIE ROSS; ATTORNEY TAB BEALL; LAW OFFICES OF PURDUE, BRANDON, FELDER, COLLINS & MOTT; LISA NEILSEN AND DOES 1 - 10.

Respondents / Appellees

Before the Sixth Judicial District Court, County of Oneida, Case No. 2011-CV-066, Judge Stephen Dunn Presiding

VERIFIED
REPLY BRIEF OF APPELLANT

WITH ATTACHED ADDENDUM AS PROVIDED BY I.A.R. RULE 34(b)

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MOTION THAT JUSTICE JIM JONES BE DISQUALIFIED FROM SITTING ON THIS APPEAL

Justice Jim Jones' long time law clerk Yvonne Dunbar joined APPELLEES lawfirm a short while ago and it is Telford's belief that this action tainted the fair consideration of Appellant's motion to augment the appellate record before Justice Jim Jones given Justice Jones violated the express mandates of IAR 30 (a), which provides:

> Any party may move the Supreme Court to augment . . . the clerk's record. . . **but the moving party must establish by citation to the record or transcript that the document was presented to the district court.**

Justice Jim Jones improperly denied APPELLANT's motion to augment this appellate record with the records which were concealed from the clerk's record; all of said records which were inculpitory against APPELLEES. Telford argued in her motion to augment the appeal record (before briefing was commenced), that her affidavits in the clerk's record made reference to the exhibits in the attached Addendum which Telford contends were deliberately gutted from the clerk's record to Telford's substantial injury. Furthermore, Telford provided justice Jones with the transcript of the October 9, 2012 hearing where Telford complained once again about clerical misconduct relating to her court files. The hearing transcript is attached to Holli's Addendum as exhibit "1" thereto and shows that Holli submitted original declarations into the record with attached exhibits, but that the clerks set aside Holli's original affidavits, not placing a file stamp on these documents, and which has now caused Telford's affidavits not to be considered. Read Hearing transcript at exhibit "1" to the attached Addendum for Telford's complaint about clerks gutting her trial record to prejudice Telford's appeal.

Nevertheless in the transcript, Judge Dunn prejudicially did not allow Plaintiff's exhibits admittedly attached to Plaintiff's original affidavits to be admitted into the court record, in spite of Judge Dunn's October 3, 2011 Order referring solely to Telford's affidavits and attached exhibits when disposing of the Telford's claims. Justice Jim Jones should have corrected the abuse of discretion by Judge Dunn and admonished the clerk. Instead, Justice Jones condoned this official misconduct - which has allowed the APPELLEES to continue to perpetrate a fraud upon this court . Telfordi therefore now asks that Justice Jones be prohibited from sitting on the panel deciding this appeal based on an apparent bias against TELFORD. [1] FURTHERMORE, to achieve justice in this appeal, Holli asks that the panel overturn Justice Jim Jones order denying augmentation and consider the exhibits in the attached Addendum so that Appellees may not continue to perpetrate a fraud upon this court.

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1. Moreover, immediately after Justice Jones conclusively denied Appellant's motion to remand, Justice Jim Jones ordered Holli to forthwith submit her Opening brief, leaving Holli little to no time to prepare her brief, in light of the gutted record.

OBJECTIONS TO APPELLEES STATEMENT OF THE CASE

Appellant Holli Telford hereby objects to various parts of Appellees "Statement of Facts" which blatantly mischaracterizes the facts and evidence presented to the trial court below. Furthermore, Justice Jim Jones when he singly heard Appellant's motion to augment this appeal record based on District Court clerk Diane Skidmore concealing pertinent trial records below, violated IAR 30 with respect to part of the rule that provides:

> (a) Any party may move the Supreme Court to augment . . . the clerk's record. . . but the moving party must establish by citation to the record or transcript that the document was presented to the district court.

Holli argues that she can cite to the incompetent clerk's record created by clerk Diane Skidmore and to parts of the October 9, 2012 hearing transcript attached as exhibit "1" to the Addendum hereto, and show how inculpitory records against the Appellees were intentionally concealed from the record by District Court clerk Diane Skidmore in order to obstruct this appeal and Holli's entitlement to proceed on her claims against the defendants as a matter of law in the state of Idaho. Holli will redress each objection in turn, and in conclusion, ask this court to enter a default sanction against Appellees for the numerous misrepresentations they made to this court in their response brief.

Before Holli attacks the Appellees mis-representations, Holli wishes to address the Appellee's efforts to corruptly taint this appeal by referring to the void contempt orders against Holli Telford Lundahl in their footnote 2, page 1 of their Response Brief :

First and foremost, this court lacks jurisdiction to consider these contempt orders because they were neither presented too, nor passed upon by the trial court below. Secondly, the contempt orders are presently before another court for determination as to their validity, albiet against a relative of Holli's. The Constitutional defects in these contempt orders remain the same no matter who the contempt orders are applied against, accordingly Holli attaches as exhibits "2" and "3" to the Addendum herein, her relative's "electronically recorded motions" seeking to declare 2 of the primary contempt orders upon which all others are predicated, void ab initio.

THE CONTEMPT ORDERS CITED TO BY COUNSEL ARE VOID AB INITO AND THEREFORE CANNOT SUPPORT ANY CLAIM THAT HOLLI IS A SERIAL VEXATIOUS LITIGANT

On February 20, 2013 in re Idaho Supreme Court appeal no. 39497 – 2011, Appellant Holli orally argued before this Court the constitutionality of Idaho Court Administrative Rule 59, the vexatious litigant statute. Hollli argued that the rule as applied to her, effectively sanctioned a "Star Chambers Court". Specifically under this administrative Rule : there was no court file or record ; there was no docket record, there was no transparency to monitor this alleged official proceeding; the notice procedures under the rule were constitutionally defective because the State was entertaining an independent action under the rule and service of the OSC (which constituted a complaint under Idaho law), should have required personal service within the state of Idaho; the hearing procedures provided under the rule should have been mandatory and not permissive; an ADJ cannot base his contempt order on a discretionary jurisdictional ruling which as a matter of law under rule 41 must be dismissed "without prejudice" and thereby meet the definition of "adversely and finally determined against the litigant", and : if the ADJ bases his ruling on other federal and state orders finding a litigant vexatious, the court must first ensure that underlying order is not void ab initio and subject to collateral attack.

Not only did Holli attack the constitutionality of Rule 59 as applied to her, she also attacked the jurisdiction of the Idaho Supreme Court to hear the proceeding on the merits in light of the fact that ADJ Nye had been disqualified without cause, ADJ NYE had been disqualified for cause, ADJ Nye never acquired personal jurisdiction over Holli by valid service of process, and the fraud committed in the trial court by Oneida County District Court Clerk Diane Skidmore in gutting the entire lower court record as instructed by ADJ NYE, nullified in whole the entire administrative proceedings.

Additionally, Holli argued in her briefs that the Idaho Supreme Court was required to remand her the case back to an impartial tribunal to hear the merits of Holli's collateral attacks on the referenced federal and state contempt orders - **because the Idaho Supreme Court could not sit as a fact finding body without committing structural error.** Structural errors are fundamental defects in the trial mechanism that affect the entire "framework within which the trial proceeds." Arizona v. Fulminante, 499 U.S. 279, 310 (1991). "Where an appellate court acts as a fact finding body, structural error occurs". Lavender v. Kurn, 327 U.S. 645, 652-653, 66 S. Ct. 740, 90 L. Ed. 916 (1946); Accord in Barr v. Gratz, 4 Wheat. 213, 220; The Abbotsford, 98 U.S. 440, 445;

Railroad Co. v. Fraloff, supra, 31; Terre Haute & Indiana Ry. Co. v. Struble, 109 U.S. 381, 384, 385; Fishburn v. Chicago, M. & St. P. Ry. Co., 137 U.S. 60, 61; Ayers v. Watson, 137 U.S. 584, 597 ("An Appellate Court cannot decide facts which are in the province of the court or jury below."); United States v. Shugart, 25 F.3d 1054 (7th Cir. 05/06/1994) (An appellate court is not a fact-finding body.) [1] Accordingly, Holli was not required to provide the Idaho Supreme court with her motions attacking the void contempt orders, unless they were relevant to the "for cause bias" of ADJ NYE.

Moreover, the contempt orders are not only being unconstitutionally applied against Holli, but they are also being unconstitutionally applied against relatives of Holli - who were clearly not named parties in the actions resulting in the void contempt orders. For example, the Idaho Federal contempt order cited by counsel, i.e. Holli Lundahl v. NAR Inc., 434 F. Supp.2d 855, 857 (D. Idaho 2006) and the Utah Supreme Court contempt order, 2003 UT 11, were recently applied against a relative of Holli's in a collection action pending in the Wyoming federal court. Marti Lundahl procured from Holli, the identical motions Holli filed with ADJ NYE respecting two of the primary void contempt judgments (but which ADJ NYE directed District Court Clerk Diane Skidmore to gut and purloin from the vexatious litigant record), and Marti changed these motions slightly to reflect defenses by a third person. [2] Attached as exhibits "2" and "3" to the Addendum hereto, are 2 of these motions which show how the Idaho federal contempt

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1. Viewed another way, the Court cannot pass on questions of fact. See Hormel **v.** Helvering, **312 U.S. 552, 557** (1941)("A reviewing or appellate court may not consider questions of law neither pressed or passed upon below, where **injustice** might otherwise result). Accord, Young v. United States, 394 F.3d 858, 861 n.2 (10th Cir. 2005) ("[The] general rule [is] that a federal appellate court does not consider an issue not passed upon below."). "Permitting appellate courts to decide facts would allow the appellate courts to sit as advocates and constitute structural error." Dickinson v. Porter, 31 N.W.2d 110, 126 (Iowa 1948). Examples include : "proceeding before a biased judge", see Tumey v. Ohio, 273 U.S. 510 (1927);

2. See **Martin v. Wilks, 490 U.S. 755, fn 5 (1989) : Persons who have no right to appeal from a final judgment** -- either because the time to appeal has elapsed **or because they were never parties to the case** -- may nevertheless collaterally attack a judgment on certain narrow grounds. If the court had no jurisdiction over the subject matter, or if the judgment is the product of corruption, duress, fraud, collusion, or mistake, under limited circumstances it may be set aside in a collateral proceeding. *See* Restatement (Second) of Judgments §§ 69-72 (1982); *Griffith v. Bank of New York,* 147 F.2d 899, 901 (CA2) (Clark, J.), *cert. Denied,* 325 U.S. 874 (1945). This rule not only applies to parties to the original action, **but also allows interested third parties against whom the judgment is being enforced, to collaterally attack the judgments.**

judgment, the 9th circuit contempt judgment, the Utah Supreme Court contempt judgment and the NAR attorneys fees judgment are all void ab initio.

Also in several of the cases cited by APPELLEE's counsel, Holli is a defendant or respondent in the cases while Holli was in bankruptcy. See Los Angeles Homeowners Aid v. Holli Lundahl; and Lundahl v. Quinn. Any disposition in those cases would have been void ab initio as in violation of the automatic stay. The Petition before the US Supreme Court is a forgery signed in Holli's name, and furthermore, shows on it's face that no notice was given before entry of the contempt judgment. Finally in Lundahl v. Hawkins, this judgment was predicated solely upon the void Utah Supreme Court Contempt judgment and hence is void if the underlying judgment is void.

Finally, counsel asserts in his footnote, that Holli was declared incompetent to stand trial in her criminal case 2:06 CR 693 by reference to exhibit "4" attached to Holli's Addendum. In fact, Holli was temporarily held incompetent to stand trial for medical reasons. Specifically, a Utah jail nurse criminally manipulated Holli's blood pressure readings to reflect normal - in order to support a claim that Holli was faking her cardiovascular injuries sustained in 1995 when Holli was assaulted at the hands of Eli Lilly and company and Lilly's co-compliciters. [3] On June 23, 2008, Holli was taken to a federal court hearing to discuss her physical health. A number of witnesses familiar with Holli's health problems were in the courtroom. At this hearing, this jailhouse nurse testified that Holli suffered from hypochondriasis because Holli did not have any hypertension or atrial fibrillation (Side effects of Holli's drug and assault induced heart attack on September 27, 1995 at the HCA hospital in Orange County, California. Refer back to exhibit "4" of the attached Addendum for reference to this hospital.). Holli stood up at the close of the Nurses' testimony and called the nurse a blatant perjurer. Holli also demanded to have her blood pressure taken electronically in open court. The Judge ordered the Marshals to removed Holli to the hallway because of her outburst. Holli's blood pressure was electronically measured by the US Marshal- a former paramedic. The US Marshal returned back to the courtroom and reported Holli's blood pressure at 190/115. The Judge subsequently ordered that Holli be direct (life) flighted to the Federal Medical Center "FMC" in Carswell, Texas. The Court immediately remanded

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3. In addition to manipulating Holli's blood pressure readings, this nurse also bate and switched Holli's heart medications ordered by Holli's primary doctor causing Holli the suffer a CVA almost one month before the June 23, 2008 hearing.

Holli to the custody of the BOP for this purpose. [4]

A subsequent examination by a Government subsidized cardiologist, was taken. Attached hereto as exhibit "5" is the cardiologist's redacted report on Holli. He diagnosed Holli with Diastolic Congestive heart failure, severe hypertension and S4 gallops associated with atrial fibrillation. The BOP conclusively determined Holli as physically disabled via cardiovascular disease through reports issued by multiple independent specialty medical providers on contract with the BOP. The Secretary of Health and Welfare also made her separate affirmative determination that Holli was permanently physically disabled through assault related conduct in 1995, resulting in cardiovascular disease. In ***United States v. Utah Construction & Mining Company***, **384 U.S. 394 (1966), the U.S. Supreme Court held that "(w)hen an administrative agency is acting in a judicial capacity and resolves disputed issues of fact properly before it, *res judicata* and collateral estoppel bars are properly imposed against any attempt to subsequently attack the final administrative decision.**

When the Prosecutor got confirmation of the final "agency determinations" regarding Holli's physical and mental health [5], and after Judge Downes in an interlocutory

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3. The docket record in re USDC - Utah case no. 2:06-CR-693 shows that the Wyoming Judge several times throughout Holli's 3 year criminal litigations - directed the BOP and it's Medical arms, here the FMC in Carswell Texas, to determine Holli's health status resulting from the assaults inflicted at the HCA hospital located in Orange County, California on September 29, 1995 and thereafter. The BOP in conjunction with the SSA did determine Holli's health status under the sole discretion of their own contracted physicians - given Holli was detained against her will.

5. During the criminal litigation, Holli repeatedly denied having been examined by a sole practitioner psychologist Vicky Gregory. Holli claimed that she was on the phone in her pod with several persons in an intercom phone call when her phone call was interrupted because of a visit by a "Vicky Gregory". Holli informed the court as noted through court records, that she was transferred to the programs pod to meet with Vicky Gregory and when Holli learned of the purpose of Gregory's visit, to countermand the competency reports twice issued by the Psychology Department at Carswell Texas, Holli refused the examination, returned to her cell, and resumed her phone call with family members and friends.

After Judge Downes issued his November 2008 decision, the Prosecutor contacted the witnesses Holli was in phone contact with on August 22, 2007 during the time Vicky Gregory had allegedly examined Holli for the period of 1½ hours. The Prosecutor discovered that Gregory's testimony was false. In addition, Gregory claimed in her [fabricated] report that Holli had gotten volatile with Gregory during the alleged 1 ½ hour examination and thus had to be physically removed from the interview room. Such an aggressive maneuver by an inmate at the jail would have resulted in disciplinary action against the inmate. Given there was no incident report made either orally or in writing against Holli, the Prosecutor concluded that Vicky Gregory had lied in her report to benefit the complaining witness Eli Lilly.

order entered in November of 2008 tried to USURP the specialized decision making authority of the BOP and SSA by self imposing his own rule regarding Holli's competency adverse to the "twice-made" agency determinations, and after the Prosecutor had investigated Holli's charge that Vicky Gregory never examined Holli and had fabricated a report against Holli, and because the Prosecutor could find no evidence that Holli had committed any of the crimes charged by Lilly or Judge Tallman in the Idaho federal contempt judgment, the Prosecutor exercised his executive authority and **voluntarily moved to dismiss all criminal charges and actions against Holli without prejudice - as if the criminal cases had never been brought .** The Prosecutors actions were intentionally taken to moot all of Judge Downes' prejudicial and "now proven false" interlocutory orders finding Holli to be a hypochondriac and/or suffering from a persecutory complex involving Eli Lilly. [6]

Accordingly based on the aforesaid record, APPELLEES may not cite to any "now determined false findings" made by Wyoming federal judge William Downes during Holli's former criminal litigations, to taint this appeal.

OBJECTIONS TO THE PATENTLY FALSE STATMENTS OF FACT MADE BY APPELLEES

1. APPELLEES falsely assert that Holli attempted to buy the Texas Property. Response Br. @ 1.

Objection: This statement is patently false. **Holli did purchase the Texas property.** See exhibit "6" attached to Addendum hereto. All of the records in exhibit 6 were presented to the District Court at C.R. , Vol. I, pp. 141-142, Aff. Of Telford,

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3. **When the charges were voluntarily dismissed without prejudice, the dismissal order mooted every single interlocutory order entered in the criminal case as if the interim orders had never been entered.** See WRIGHT v. WRIGHT, 22994 (APP. 1997), No. Docket No. 22994 (Idaho App. 05/08/1997) (A plaintiff's voluntary dismissal of an action can be seen as having the effect of an absolute withdrawal of the plaintiff's claims and leaving the defendant as though the defendant had never been a party citing Cook v. Stewart McKee & Co., 157 P.2d 868, 870 (Cal. Ct. App. 1945) citing 5 JAMES WM. MOORE, et al., FEDERAL PRACTICE Section 41.05[6] (2d. Ed 1982); Also see Rawlinson v. Wallerich, 132 P.3d 204, 2006 WY 52 (Wyo. 04/20/2006) (voluntary dismissal without prejudice rendered the case "a nullity, as if the suit had never been filed"); Accord in Williams v. Clarke, 82 F.3d 270, 273 (8th Cir. 1996); Beck v. Caterpillar, Inc., 50 F.3d 405, 407 (7th Cir. 1995) ("suit voluntarily dismissed rendered moot every interlocutory order because case treated as if never filed.) ; Steel Co. v. Citizens for a Better Env., 523 U.S. 83, 100 n.3 (1998)

para(s) 9 - 11 referring to attached exhibits 3, 4 and 5. (District Clerk Diane Skidmore gutted the exhibits from Holli's Affidavit. Holli complained about this gutting act at the hearing to augment the record. Refer back to exhibit "1" attached to the addendum, Transcript of the 10-9-2012 hearing, pages 6-9.). Moreover, Judge Dunn considered all of these records in his October 3, 2011 Decision as shown at C.R. Vol. II, pp. 303-304, footnotes 18-36.) Therefore the records in exhibit "6" to the Addendum attached hereto, are properly before this court.

Moreover, all affidavits submitted by HOLLI in C.R., Vol. I, pp. 126 - 170 were in support of her cross motions for summary judgment against the Defendants, **AND NOT ONE OF HOLLI'S AFFIDAVITS WERE OPPOSED BY THE APPELLEES.** See **Sprague v. City of Burley, 710 P.2d 566; 109 Idaho 656 (ID, 1985) (**We affirm the district court's ruling granting partial summary judgment to the City because "a party defending a motion for summary judgment may not rest on its pleadings, but must offer affidavits or other evidentiary materials which demonstrate that an issue of fact remains." Theriault v. A.H. Robins Co., 108 Idaho 303, 698 P.2d 365, 368 (1985); First Piedmont Bank and Trust Co. v. Doyle, 97 Idaho 700, 703, 551 P.2d 1336, 1339 (1976). I.R.C.P. 56(e) states: When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of his pleadings, but **his response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If he does not so respond, summary judgment, if appropriate, shall be entered against him.** Here, because Sprague's affidavit failed in any way to respond to or controvert Messley's statements with regard to the City's officer training policy, the district court properly entered an order of summary judgment as to the City.

In this case, because APPELLEES failed to oppose Holli's rebuttal and direct affidavits claiming and proving HOLLI purchased the property, then APPELLEES are barred from doing so in these proceedings. Finally, Judge Dunn's order at C.R. Vol. II, p. 301 admits that Holli had purchased the property through the findings: "After Plaintiff had advised Smith County of the error she was directed to the property that Smith County actually owned **and that she had purchased. The Parcel Plaintiff purchased** was significantly different than anticipated."

2. Appellees claim that HOLLI failed to properly serve the remaining non-

appearing Defendants and as a result HOLLI's claims against these defendants were dismissed without prejudice. Response Br. @ 1.

Objection: Raised as an issue in this appeal, is whether HOLLI had the right to invoke the long arm service statute under the Idaho consumer Protection Act as a service procedure for a summons and complaint. See Opening Brief, pp 31-32. HOLLI disputes service by certified mail constituted improper service upon the defaulting defendants.

3. Judge Dunn found that exercise of personal jurisdiction over the Defendants would violate Constitutional Due Process.

Objection : Judge Dunn made such finding because the real property subject of this action could not be ported to Idaho. See Opening Brief pp. 27 paragraph 4 and 29 paragraphs 2-3. However, HOLLI sought the deed to the real property as promised on pages 4-5 of exhibit "6" attached to the Addendum hereto. The paper Deed to the property was portable.

4. Telford attempted to submit a bid on real property.

Objection: Page 1 of exhibit 6 to the attached Addendum shows Holli did submit a bid, that Holli's bid was approved and that Holli was sold the property.

5. The property bid on was struck off to Tyler School District. Res.Br. @ 2.

Objection: This is a false statement. The property bid on was struck off to Smith County Trustee. See C.R. Vol. I, p. 36.

6. Telford submitted the bid by providing a written paper copy of the bid to the Smith County Assessor's office.

Objection: Telford sent her bid in to the Smith County Assessor's office by certified mail. Telford was later asked to resubmit a new bid based on the county's erroneous listing of the situs address to the property. C.R. Vol. I, p. 34.

7. Holli's sealed bid indicated a Texas address for Holli citing to C.R. Vol. 1, p. 134. Response Breif @ 2.

Objection. Holli maintains that the envelope found at C.R. Vol. 1, p. 134 is a forgery and not from Holli. Moreover C.R. Vol. I, pp. 34, 146; C.R. Vol. II, pp 283 - 284, and pg. 1 of exhibit "6" attached to Addendum hereto, all show Holli's address and the origin of the purchase funds to buy the subject real property as being

Malad City, Idaho. Furthermore, Holli does not possess a phone line carrying a Texas phone number and Appellees exhibit A @ C. Vol. Supp. p. 127 is a self generated document by Smith County carrying an incomplete Texas phone number of 469, stop.

8. Plaintiff never recieved the Deed for the Property,

Objection: As part of a fraudulent scheme by the Defendants, Holli was deprived of the deed. See Opening Brief pp 24-27.

9. Throughout the bidding process, Telford made a number of visits to Texas in February 2011, April 2011 and May 2011.

Objection : The bidding on the subject property commenced on March 1, 2011. The February check shown at C.R. Vol. I, p. 146 and bearing Holli's Idaho Address was **sent well in advance of this property being offered via the internet.** Accordingly the bidding process had not yet begun. **Holli was announced the winner of the bid on March 31, 2011.** Affidavit of Kim Vogt, C.R. Vol. I, p. 134, para. 4. **Hence the bidding process commenced March 1, 2011 and concluded March 31, 2011. "Holli therefore was not in Texas "throughout the bidding process."** Furthermore, C.R. Vol I, p. 128, paragraph 10, admits that Holli did not visit Texas until April 30, 2011 to commence rehabilitation work on the property, almost one month after Holi had been advised that she owned the property through an irrevocable sale.

10. Telford recieved a number of telephonic communications from Smith County presumably informing Telford that she had won. In fn. 8, the Appellees contend that because Telford failed to cite to the record proof of these phone calls, that they should be disregarded.

Objection: C.R. Vol. 1, p. 149 shows at least 4 phones made to Telford's Idaho residence on April, 4, 2011 (a monday) and one on April 8, 2011 discussing the letter Lois Mosley executed in Lundahl's favor. This letter is found at exhibit "6" in the attached Addendum, page 1 of that exhibit.

11. Telford visited the State of Texas on April 30, 2011 through May of 2011, to take possession of the property despite the fact that no Deed had been received.

Objection : The selling officer for the Smith County Assessor's ofice Lois Mosley informed Holli that she could "possess the property as the new purchaser"

and that Holli "could also make improvements to the property." C.R. Vol. I, p. 141, paragraph 11 and exhibit "6", pg 1 attached to the Addendum herein, paragraph 3. Furthermore, Holli had been promised delivery of the Deed through the mail by Smith County's other attorneys, the Law offices of Linebarger, Goggan, Blair and Sampson. See exhibit "6" attached to the Addendu hereto, pgs 4-5. Finally, to date Smith County has always retained the purchase funds on the real property, C.R. Vol. II, pp. 283 and 284 - pursuant to the modified bid contract. C.R. Vol. I, p. 34.

12. On May 6, 2011, Plaintiff . . .attempted to provide a substitute bid (in the form of a letter) as oppose to a sealed bid. As this letter was not a sealed bid, it could not be accepted.

Objection: Holli submitted a nun pro tunc modified bid, not a lettered bid. See C.R. Vol. I, p. 34. However, the sale was over. The property had been sold. The sealed bidding process was MOOT. This issue was directly discussed with the selling officer Lois Moisley on May 6, 2011 where Holli and 4 other persons appeared at Smith County Assessor's office to address the sale defect. Holli as well as the other 4 witnesses observed Lois Mosley directly discuss the listing defect with the Smith County Assessor Gary Barber. Lois Mosley instructed HOLLI to **"resubmit another bid nun pro tunc to a day before the bidding closed and bid the assessed value of the property only."** C.R. Vol. I, p. 142 paragraph 14. Holli did resubmit another bid. See C.R. Vol. I, p. 34.

13. Although Telford was the only bidder on the property, her bids were never accepted by Smith County.

Objection: The only written notice that the cournty had not accepted Holli's bid or purchase of the property came from the July 6, 2011 affidavit of the County Assessor - well after Holli served the Assessor with the lawsuit. C. Supp.R. p. 125. Of interest is that 6 days, after the Assessor executed his perjured affidavit denying Holli owned the real property which had now been improved by more than $250,000, the property was allegedly redeemed by the former defaulted owners and Smith County Judge Joel Baker accepted the redemption. Smith County Judge Joel Baker was the statutory agent who recieved service of process of the underlying Idaho lawsuit on June 4, 2011. (See C.R. Vol. I, pp. 103 – 104 for return of service), See exhibit "7" attached to the Addendum hereto for certified copy of this void Redemption Deed. On

October 3, 2011, Judge Dunn referred to this redemption deed in his Order when Judge Dunn found: "After Plaintiff had incurred substantial costs improving the land, Plaintiff was notified that the former owner had redeemed the property and that Smith County was revoking the sale." The Redemption Deed was attached to Holli's Affidavit filed into the record on August 1, 2011. **The Deed has been purloined from the record by the District Court Clerk Diane Skidmore.** Because Judge Dunn referred to this deed when it entered his October 3, 2011 decision, this Redemption Deed is properly before this court. This court should take judicial notice of who authored the void Redemption Deed; none other then the Defendants herein attorney Tab Beall under the rubric of his lawfirm, the Law Office of Purdue, Brandon, Felder, Collins & Mott. In footnote 9 of their response brief, APPELLEES conceal the execution of this Redemption Deed so that they can avoid liability for their participation in the criminal scheme to steal $250,000 + in monetary assets from Holli.

14. Telford never paid for the property at issue. Telford cites C.R. 258-259 of the record to support her contention that she paid a deposit on the property. The money transferred to Smith County . . . was to purchase of a manufacture home citing C.R .p. 144, para. 18.

Objection: Paragaraph 18 of the Telford Affidavit states : **"I had placed a manufactured home on the property which I had purchased from Smith County."** The reference is to purchasing the property from Smith County, not the manufactured home. Holli purchased the manufactured home sitting on the property from a dealer in Waco Texas. Attached as exhibit "8" is the purchase reciept and wire notice for the double wide manufactured home that is presently on the property. Williams is a reference to a former owner. As can be noted by the reciept, the manufactured home was purchased one year before Holli purchased the Smith County real property.

15. Barber does not remember ever talking to Plaintiff during the periods outlined in Plaintiff's complaint.

Objection: Plaintiff did not allege in her complaint that she ever talked to Barber. Rather Plaintiff attested in her affidavit that Barber instructed Lois Mosley, the selling agent, to instruct Holli to prepare a modified bid on the correct property sold to Holli. C.R. p. 142, Vol. I, paragraph 14. Which Holli did. C.R. Vol I, p. 143, paragraph 15.

16. No personal service of the summons was made on Barber.

Objection: As soon as Judge Dunn issued his order on July 18, 2011 asserting that the complaints must be personally served under the Idaho Consumer Protection Act, instead of by certified mail, Holli sought to preserve this issue on appeal as to the defendants who made no appearance at all, and Holli caused each specially appearing defendant to be personally served. At C.R. , Vol II, pp 288-290, an Amended return for Personal Service on Defendant Gary Barber was filed. The Texas process server, Sarah Garner, attests under penalty of perjury that she personally served Gary Barber on September 14, 2011 @ 2:00 p.m at his place of work, the Summons and verified Complaint. C.R., Vol. II, . 290.

17. Smith County Count is a Political subdivision and has *essentially no general contacts with the state of Idaho.*

Objection: Holli's personal jurisdiction claims against all defendants hereon are targeted under the "Specific jurisdicition" rule, not the general jurisdiction rule. Moreover, on page 14 of her Opening Brief Holli succinctly outlined why Smith County does not bear the cloak of a government entity when acting in a commercial capacity to execute contracts and sell property. Footnote 1 very clearly shows that the State of Texas withholds all government immunity from county entities in such situations as the case at bar.

18. The facts regarding Beall and Purdue Brandon are similar, and show how inately rediculous it was to include them in this suit. These defendants . . . have *essentially no general contacts with the state of Idaho.*

Objection: Holli's personal jurisdiction claims against Beall and Purdue Brandon are also targeted under the "Specific jurisdicition" rule, not the general jurisdiction rule. Attached as exhibit "7" to the ADDENDUM hereto is the certified copy of the redemption deed which Beall and Purdue Brandon authored no less than 45 days after they had been served with the summons and Complaint underlying action. They colluded with the county judge to strip plaintiff of more than $250,000 in portperty assets tied to the property, knowing full well that plaintiff was seeking specific performance on the sales contract, that plaintiff had improved the property, that the defaulted owners had by passed their redemption period, and that they were committing a crime through extortion under color of law by authoring and sustaining the execution of the void redemption deed in collusion with the County Judge Joel Baker.

19. The law offices of Purdue Brandon have not been properly served.

Objection: As soon as Judge Dunn issued his order on July 18, 2011 asserting that the complaints must be personally served under the Idaho Consumer Protection Act, instead of by certified mail, Holli sought to preserve this issue on appeal as to the defendants who made no appearance at all, and Holli caused each specially appearing defendant to be personally served. At C.R. , Vol II, pp 294-296, an Amended return for Personal Service on Defendant LAW OFFICES OF PURDUE BRANDON was filed. The Texas process server, Sarah Garner, attests under penalty of perjury that she personally served this law office on September 14, 2011 @ 2:00 p.m at 305 S. Broadway, Tyler TX 75701, by serving the the Summons and verified Complaint. upon the office manager Stephan Golden. C.R., Vol. II, . 296. Plaintiff Holli followed up with a mailed copy of that service. Accordingly, this law office has been properly served under Idaho rule for personal service on a business entity who does not have a registered agent of service in the state of Idaho.

OBECTION TO APPELLEES PROCEDURAL FACTS

The Appellees claim that Telford did not file a motion to amend the Complaint until after final judgment. In an affidavit filed by Telford as **C.R.,Vol.III, p.438, paragraphs 8-9.** Telford attests that at the first hearing conducted by Judge Dunn **on September 7, 2011,** Telford tried to amend her complaint to add additional RICO allegations deriving from the criminal prosecution. Judge Dunn stated in open court that it would not hear Holli's new allegations irrespective that the case was only 3 months old. Judge Dunn also refused to allow Holli to amend her error in stating a Utah Fraudulent Communications claim instead of an Idaho RICO claim so Holli argued her Idaho RICO claim under IRCP rule 15(b) conforming her claims to the new evidence presented to the court. See Paragraph 10 and fn. 4., p. 438. Several times thereafter, Holli continued to ask the court orally to allow her to amend her complaint, and the court continued to reject Holli's pleas for amendment because he had no intention of sustaining jurisdiction over the action, irrespective that it may have existed. Holli filed a written motion as C.R. Vil.III, p. 458. APPELLEES implied assertions that Holli did not attempt to amend until after final judgment are and were therefore false.

ARGUMENT

On page 17, paragraph 2 of their Response Brief the APPELLEES properly identify that Holli was seeking the exercise of personal jurisdiction over the Defendants "for acts giving rise to Telford's causes of action." This type of jurisdiction is referred to as specific jurisdiction.

1. Five Of The Issues Raised In Appellant's Opening Brief Address Two Components Of The Idaho Long Arm Statute I.C. Section 5-514 And Therefore Holli Has Not Waived Any Issue Of Jurisdiction

APPELLEES argue that Telford has waived her argument or Issues re personal jurisdiction under the Idaho long arm statute by virtue of her failure to site to the statute number, I.C. 5-514 (the Idaho Long Arm Statute) in her analysis. Response Brief @ p. 13. **This is an absurd argument as it would place form over substance in the pleading averments.** [7] Five of Telford's Issues on appeal clearly address two components of the Idaho Long Arm Statute, ie the doing business clause and the tortious injury clause.

HOLLI pleaded 8 issues on appeal :

The first issue deals with the due process requirements under the long arm service statute of the Idaho Consumer Protection Act and requires this court to set forth a first impression rule as to whether Congress intended that the word "Notice" in the statute was intended to cover service of a Summons and Complaint by certified mail, or whether personal service had to be accomplished under this act to acquire in personam jurisdiction over the seller in violation of the act.

The Second and Fourth Issues assert that the Defendants committed fraud, deception and false promise against an Idaho resident during a consumer transaction

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7. See **Anderson v. Crapo, 589 P.2d 957; 99 Idaho 805 (ID. 1978)** (Appellants Crapos argue at the outset that the trial court erred in not granting their motion to dismiss the writ of habeas corpus on the grounds that respondents Andersens failed to provide an answer to the return on the writ. They argue that without such an answer the return to the writ stands as the complaint and, since its allegations are deemed admitted, the writ must be dismissed. **This argument exalts form over substance** since it is standard procedure to treat the petition itself as the answer to the return when the petition fully serves to traverse the allegations of the return and when no further affirmative pleading appears necessary. Cole v. Cole, 68 Idaho 561, 573, 201 P.2d 98, 106 (1948).). Followed in In re Weick, 127 P.3d 178, 142 Idaho 275 (Idaho 2005) (Attempting to place form over substance with regards to noticing requirements.).

dealing with real estate and that plaintiff was largely monetarily damaged and continues to be damaged in the state of Idaho. The Fourth Issue asks the court to direct turn over of the **portable Deed** to prevent further ongoing damages, or to create a constructive trust over the properties and determine the amount of Plaintiff's conversion damages. The Idaho long arm statute has a "tortious injury" clause which provides for jurisdiction over any person that injures an Idaho resident.

The Third Issue deals with forming a contract in the state of Idaho for purposes of completing a business transaction.; clearly a prong under the doing business clause of the Idaho Long Arm Statute.

The Fifth Issue asks this court to determine whether the personal jurisdiction statute for crimes applies to the Idaho RICO statute where one element of the crime is committed in Idaho and part of the injuries are felt by the Idaho resident within the state.

Telford's Sixth, Seventh and Eighth issues deal with procedural due process questions and whether the trial court abused it's discretion in not allowing Telford to amend her complaint to plead attempted extortion through illicit use of the criminal process to defeat Plaintiff's civil claims and criminal conversion via extortion under color of law in blatantly stealing Holli's and other Idaho citizen's properties in violation of the Texas Property Tax codes.

Accordingly, Holli did not waive any jurisdictional argument against the defendant.

2. HOLLI STATED BOTH TRANSACTIONAL AND TORTIOUS INJURY DIRECTED AT AN IDAHO RESIDENT

APPELLEES subsequently assert that "even assuming that Telford argued jurisdiction under Section 5-514, she still could not show an act which would invoke this section." APPELLEES correctly state that two prongs of the Idaho long arm statute apply, ie. the doing business clause and the tortious injury clause.

APPELLEES argue that because Barber, Beall nor Purdue were the sellers of the property in question, Smith County was, that they cannot be held liable under the doing business clause of the Idaho Long Arm statute.

Telford did not argue that these persons were liable to her under the doing business clause. She expressly argued that they were liable to her under the tortious injury prong of the Idaho long arm statute. See Opening Brief pp 23-26.

APPELLEES next argue that none of the defendants committed any tortious acts against Telford. Specifically, "Telford can point to no action committed by Barber. Attached as exhibit "7" to the the Addendum attached hereto is the Redemption Deed that was gutted from the trial record and referred to in Judge Dunn's October 3, 2011 Order. C.R. Vol. II, p. 304, reference to fn. 33. This Redemption Deed is crticial to the inquiry of whether the Defendants tortiously and criminal attempted to injure Telford and those situated with Telford. See Aff. Of Ferron Stokes C.R. Vol. III 446-447, and Aff. Of Mike Slicker, C.R. Vol. III, pp 444 - 445.

In the Clerk's Supplemental Record, pp. 122-125 is the Affidavit of Gary Barber. C Supp R.., p.124. At paragraph 15, Barber admits that the first bid Telford submitted to Smith County @ $12,001.00 **"was more than seventy-five per cent of the value of the taxes owed on the property."** See C.Supp.R. p. 130 for Telford's original bid. Hence, the $4200 modified bid made by Telford pursuant to Lois Mosley's instructions, see C.R, Vol. I, p. 34, more than compensated Smith County for the back taxes owed on the property **Holli purchased** and would have given Smith County an additional $1200 in transaction funds.

Paragraph 18 of Barber's affidavit states "Prior to Ms. Telford's bid being accepted, **the property was redeemed pursuant to Texas Law."**

> Texas law provides: Texas Property Tax Code:
> Sec. 34.21. Right of Redemption, provides:
> (f) If the owner of the real property makes an affidavit that the owner has made diligent search for the purchaser at resale, and has failed to find the purchaser, . . .that the owner and the purchaser cannot agree on the amount of redemption money due, . . . **the owner may redeem the land by paying the "required amount" as prescribed by this section to the assessor-collector for the county in which the property described has been redeemed.**

Accordingly, under Texas Law **Barber is the person who received the redemption fees** referred to in the Reemption Deed attached as exhibit "7" to the Addendum. Furthermore, according to Barber's own testimony, the redemption fees due on the property would have been no more than $3,000. (If Telford's original bid was

$12,001, and Telford paid more than 75% over the amount of redemption taxes due on the property as attested to by Barber, than the actual redemption fee would have been $3,000.).

It is admitted that no affidavit was ever filed with Barber to redeem the property as required under Sec.34.21(f) and Barber's affidavit wholly omits reference to any such affidavit. C.R. p. 405. Furthermore, **on May 6, 2011, Barber was aware that Telford construed herself as the purchaser of the property in question, because in evidence submitted by Barber himself, (ex. D attached to Barber Affidavit), C. R. Supp. 137, in the first paragraph, Telford asks for clerification on which property Telford purchased (emphasis added) at the tax sale.** Also submitted by Barber was the internet advertisement on the Tax Sale. C.Supp. R., p. 133. Item number 197 shows the property in question. After listing the account no., this record shows that the property was deeded back to the County in cause no. 22,107-C. The Deed was recorded with the Texas court on September 10, 2010. O.B. p. 17. This record also shows that the first sale on that property took place on November 2, 2010 and the property was not sold, but rather struck back to Smith county. Hence the March 1, 2011 sale where Telford placed a deposit on the transaction (refer back to C.R. Vo. II, p.283), **was a resale.**

In C.R. Vol. I, p. 140, paragraph 10, Telford talks about the faxed letter Mosley executed and delivered to Telford as referenced in C.R., Vol. I, p. 141, paragraph 11. (Exhibit "5" in the July 18, 2011 Telford Affidavit was the letter by Lois Mosley. This letter was gutted from the clerk's record and is exhibit "6" to the Addendum attached hereto.). In paragraph 10 of Telford's affidavit (C.R. p. 140), Telford attests that both the Smith County sales officer Lois Mosley and Telford concurred that **Texas Tax Code section 34.05 controlled the resale of the property:** The relevant section read as follows:

> **The acceptance of a bid by an officer conducting the sale is conclusive and binding. *On conclusion of the sale,* the officer making the sale shall file and record each deed under this subsection and after recording shall return the deed to the grantee.**

Accordingly, **since the subject sale was a resale of the struck off property, and since the sale admittedly concluded on March 31, 2011,** (see Aff. Of Kim Vogt C.R. Vol. , pp. 134-135, paragraph 4, whom testified that she appeared at the Smith County Tax office at the close of the sale on March 31, 2011 and heard Lois Mosley

announce Telford as the winning bidder), **then Smith County taxing sales officer Lois Mosley had no option but to file and record a deed in Telford's favor. Contrary to Barber's Affidavit, under Texas law Telford's bid was accepted at the conclusion of the sale on March 31, 2011.** These laws and arguments are made in the opening brief at pp. 15 – 20.

According to the foregoing, Barber had no right under Texas Law to reject Telford's bid more than 2 months after the sale had concluded on March 31, 2011 and Telford was publicly announced as the winner.

In addition, when Barber accepted redemption fees from Paul Kelley Jr., Barber violated Texas law. As aforesaid, Texas Property Tax code Sec. 34.21. Right of Redemption requires the filing of an affidavit :

> (f) **If the owner of the real property makes an affidavit that the owner has made diligent search for the purchaser at resale, and has failed to find the purchaser, that the purchaser . . . that the owner and the purchaser cannot agree on the amount of redemption money due, . . . the owner may redeem the land by paying the required amount as prescribed by this section to the assessor-collector.**

It is uncontested that the owners had already been served with Telford's Idaho lawsuit some 33 days before they allegedly submitted redemption fees to Barber on July 6, 2011. (See C.R. Vol. I, pp 63-73, with attention to verification for certified receipt tracking confirmation. C.R. Vol. I, p. 71.). Hence, the redeemed owner knew full well where to contact Telford in any attempt to redeem the significantly improved property. (It should also be noted that both before and after the double wide manufactured home was placed on the texas property, the defaulted owners came onto the property inquiring into Telford's improvements and Telford informed the defaulted owners that she had purchased the property at a tax sale several months earlier and now owned the property.).

In spite of having actual notice of how to contact Telford, the defaulted owners never contacted Telford to discuss redemption fees, a necessary condition to the required Affidavit. Furthermore the Affidavit is jurisdictional and in it's absence, no redemption can take place. Hence Barber's failure in his affidavit to refer to the defaulted owner's affidavit, is fatal to Smith County's entire defense that the property had been redeemed. The redemption therefore was void ab initio.

In addition, the Deed to the county was first filed of record on September 10, 2010. On Pages 17-18 of Telford's Opening Brief, Telford details at length that the owner had no right to redeem the Texas property because he had not performed all required redemption acts within 180 days of September 10, 2010, which would have been March 9, 2011, while the property could still be withdrawn from the resale. The deed attached as exhibit "7" to the Addendum hereto is dated July 12, 2011, more than 4 months after the redemption period had passed under Texas law. Accordingly, aside from failing to obtain and file the jurisdictional affidavit, no redemption rights were accorded the owner as a matter of Texas law.

Barber played a pivotal role in stealing more than $250,000 in residential assets from Telford and the redemption Deed attached as exhibit "7" to the Addnedumis critical to proving all Defendant's fraud. Without Barber receiving the redemption fees, no property Redemption could have been executed. Furthermore, the county benefited monetarily from the transaction. As attested to by Barber in his affidavit filed in the Idaho Court on July 6, 2011, C. Supp. R., p. 124, paragraph 15, the back taxes owed on the property were $3,000 (¼ of the bid amount Holli initially offered). All Kelly would have been required to pay to redeem the property would be the back taxes of $3,000. The Redemption Deed attached hereto shows that Kelley paid $12,608.36 to get the property back. This means that the County charged Kelly an additional $9,600+ over an above the redemption fees. What the County in fact did was revoke the sale from Telford and resell the property to the defaulted owner.

Barber's affidavit filed in the Idaho district court asserting that the property was validly redeemed under Texas law, was therefore perjured and constituted theft by extortion under Idaho law. Since Barbers' fraudulent extortion actions occurred within the 4 corners of the state of Idaho and for purposes of obstructing justice in an Idaho lawsuit, this court has personal jurisdiction over Barber and his employer Smith County under the servant – master theory. Moreover, the fact that APPELLEES induced Judge Dunn to dismiss the Idaho action WITH PREJUDICE under a jurisdictional theory, shows that the Smith County defendants corruptly intended to bar Telford from ever raising her theft, extortion and conversion claims against the Smith County defendants in any subsequent forum under the doctrine of res judicata.

As to Defendants Beall and Purdue Brandon, these Defendants authored the

void Redemption Deed - knowing that they were engaging in a criminal conspiracy to steal properties from Telford and other Idaho residents so invested. A reference to the Redemption Deed at exhibit "7' attached to the Addendum, shows that it was authored by Purdue Brandon and forwarded back in the mails to the office that Beal controls in Tyler Texas. It is Telford's contention that Beall orchestrated the criminal scheme to steal the properties from Telford and others, joined the County Judge Joel Baker in his scheme to give it "judicial credibility" and then colluded with the Oneida County District Court clerk Diane Skidmore to "gut" this record from the file. Refer back to the October 9, 2012 hearing transcript attached as exhibit "1" to the Addendum hereto showing Telford complaining again about the gutting of records from Telford's court files.

It is also Telford's contention, that counsel for Appellees and the Texas attorneys and lawfirm, colluded with the Oneida County prosecutor to illegally search and seize Holli's Idaho home on August 10, 2011, for the purpose of stealing and destroying Holli's original paper and electronic evidence in the Smith County and Oneida County cases - Holli had pending. See C.R. Vol. II, pp. 220 - 256 for Holli's Mandamus Writ to Judge Dunn to order the Sheriff's office to return Holli's files, records and evidence for her case against Smith County; a petition which Judge Dunn Rejected.

In addition, because APPELLEES counsel engaged in collusion to conceal the deed attached hereto, and because counsel has withheld the existence of this Redemption Deed from this court in APPELLEES response brief, this court should sanction counsel as well as Appellees for committing a fraud upon this court and automatically grant Telford default sanctions. This Court should also direct Telford to submit an affidavit of monetary damages she has suffered as a result of the Defendants criminal conduct.

3. UNDER TEXAS LAW, SMITH COUNTY IS CONSIDERED A PERSON PERFORMING PRIVATE COMMERCE FUNCTIONS. SMITH COUNTY DID CONDUCT A BUSINESS TRANSACTION WITH AN IDAHO RESIDENT IN WHICH SMITH COUNTY REALIZED A PROFIT THUS SUBJECTING SMITH COUNTY TO THE JURISDICTION OF THIS COURT UNDER 5-514

APPELEES argue that Smith County is not liable to plaintiff because they are a government entity who is not subject to the Idaho Consumer Protection Act.

In Opposition, Telford asserts that Smith County's government status is not

relevant because Smith County was engaged in performing private commercial functions and therefore is liable as a private party would be. Addressing Smith County's liability would be be a first impression question for this court.

Nevertheless, Smith County next argues that if Smith County is liable, they conducted no business transaction in Idaho. Smith County asserts that the bid process was still ongoing when Telford appeared at the County Assessor's office on May 6, 2011 to raise issue as to which property Telford had purchased.

As Aforesaid, the bidding process had been closed almost 5 weeks by the time Holli appeared that the Assessor's

office. Furthermore, the Assessor Barber's own evidence indicates that Telford appeared as an established purchaser - inquiring into which property she had actually purchased. **(See ex. D attached to Barber Affidavit), C. R. Supp. 137, in the first paragraph, Telford asks for clerification on which property Telford purchased (emphasis added) at the tax sale.**

Smith County further asserts that Barber rejected Telford's bid. Telford adopts in whole here entire argument against Barbar's claims supra, p 15-19, as if fully set forth herein - because Barber was acting as the chief employee of the county at the time he acted and clearly established a practice to violate Telford on the County's behalf.

Holli also asserts that the gravamen of the injury by Smith county occurred after Holli sued Smith County and served Smith County Judge Joel Baker with Smith County's Process. The record shows that a conspiracy then developed to assert that the property was a residential property because Telford had placed a double wide manufactured home on the property and made it into a residence. Opening Brief, pp. 21 – 26. However under the Texas Tax Code Section 34.21, Paul Kelley Jr. the heir of Paul Kelly Sr, the latter deceased for more then 12 years, could not claim a residential exemption to the property because there must have been a competent residence structure on the property which was used as a full time residence at the time the property was foreclosed to Smith County on September 10, 2010, not after Telford developed the property into a residence. See Opening Brief at pp. 20, fn. 5 and 22 fn. 8.

Furthermore according to the court records, even the record produced by the assessor himself, C Supp. R., p. 128, the property was owned by the Smith County Trustee, whom is the party Telford served in the lawsuit (See C.R. Vol. I, pp 103 -106,

and note that the summons named "Smith County Trustee" as defendant.). The smith County Trustee appeared in this action as Smith County, not the school districts. See C.Supp.R. p. 60 showing special appearance under the name SMITH COUNTY, not the school districts. Moreover, at no time while this case proceeded before the district court did SMITH COUNTY argue that the school districts were the true parties in interest,' therefore this court must strike SMITH COUNTY's argument that they are not the true party in interest in the case proceeding before this court.

Smith County then argues that Telford cannot show that Smith County realized a profit from the transaction and therefore no business was conducted. Telford adopts her argument supra that :

> . . . the county benefited monetarily from the transaction. As attested to by Barber in his affidavit filed in the Idaho Court on July 6, 2011, C. Supp. R., p. 124, paragraph 15, Telford's (initial) bid was more than seventy-five per cent of the value of the taxes owed on the property. Telford's initial bid was $12,001. C.Supp. R., p. 130. Therefore the back taxes owed on the property were $3,000. All Kelly would have been required to pay to redeem the property would be the back taxes of $3,000. The Redemption Deed attached as exhibit "7"to theAddendum shows that Kelley paid $12,608.36 to get the property back. This means that the County charged Kelly an additional $9,600+ to make money on the transaction to Telford's injury..

The County therefore earned a windfall of $9,600. on the transaction after Paul Kelly Jr. paid the true redemption fees (back tax fees of $3,000.). Accordingly, Smith County did conduct business in Idaho and did profit from the transaction. See In McGee v. Intern'l Life Insurance Co., 355 US 220, 222- 223 (1957) : The US Supreme Court held that entering into a single contract with a forum resident subjected the defendants to the plaintiff's forum even though no property belonged to the insurance company in California, no other policies were issued in California and the insurance company had no offices or agents in California.).

4. APPELLEES COMMITTED TORTIOUS INJURY IN THE STATE OF IDAHO AND WHICH THEY DIRECTED AT AN IDAHO CITIZEN

APPELLEES admit that *BLIMKA, 143 Idaho at 725, 152 P.3 at 596 affirmed that internet advertisements that reached the forum were sufficient to sustain jurisdiction arising from conduct pertaining to that advertisement.* Response Brief @ 18. But

APPELLEES assert that Blimka does not apply because Telford viewed the advertisement in Texas, dispatched to Texas to inspect the property (impliedly before the sale), bid on the property from Texas, and then went to Texas to take possession of the property. Response Brief @ 18, para. 3. *THERE IS ABOSLUTELY NO EVIDENCE IN THE RECORD TO ESTABLISH ANY OF APPELLEES CONTENTIONS.*

Appellees cite to the affidavit of Greer for the contention that Telford found the advertisement concerning the property in Texas. The affidavit of Greer says no such thing. Greer testified that Holli was interested in bidding on Texas tax properties and in pursuit of that interest, filled out a preliminary statement while in Texas on a unrelated matter on February 8, 2011. The property had not even been posted for sale on the internet until March 1, 2011, at which time Telford immediately dispatched to her bank to wire the deposit funds. See C.R. Vol. II, p 283 for wire verification. Also note that the bank letter indicates that the deposit funds were in drawn from the loan proceeds identified in Telford's letter of credit which was produced as evidence by Barber in his affidavit at C.Supp.R. 132. So Telford could not have found the advertisement on the property while in Texas on an unrelated matter in early February of 2011. Rather Telford was at her home in Idaho when she viewed the advertisement, prepared and executed the bid contracts and then sent them to Texas. Moreover, on page 16 of Appellees Response Brief, paragraph 2, Appellees **ADMIT that Telford "filled out the paper documents, and sent the documents to Texas."** Hence, Appellees are bate and switching their own argument to obstruct this appeal.

Telford admits that she did bid on the property **but the deed was illegally withheld from Telford** in violation of **Texas Tax Code section 34.05 controlled the resale of the property:** The relevant section read as follows:

> **The acceptance of a bid by an officer conducting the sale is conclusive and binding. On conclusion of the sale, the officer making the sale shall file and record each deed under this subsection and after recording shall return the deed to the grantee.**

Hence the reason Telford sued Smith County for specific performance to turn over the deed. Smith County in the interim induced Telford to improve the property to the tune of $250,000. See C.R., Vol. I, p. 141, paragraph 11 and exhibit "6" attached to the Addendum to the reply brief for Lois Mosley's letter.

Finally, Telford possessed the property when she became owner of the

property. [8] When Telford dispatched to the property in May of 2011, it was to improve her property - not possess it.

Appellees cite to Acichika as the relevant jurisdictional case and which describes the seller's connections with the forum state as only incidental. **Acichika is not similar to the case at bar.**

> First, the buyer in Acichika did not attach his Idaho properties as security for the various loans Telford obtained to improve the Texas property for purposes of resale. C.R. Vol. III, p.406, para.9.

Second, an Idaho lender executed an $85,000 mortgage on the double wide manufactured home and has converted that mortgage to a reverse mortgage with increasing principle, interest and penalties. See Aff. Stokes, C.R.,Vol. III, pp. 446-447, para(s) 2-5. A lien has now been placed against Telford's Idaho home to pay for these security interests owned by Stokes and because the defendants have not stolen and confiscated Telford's Texas properties on the reported basis that Smith County beat Telford in the Idaho Litigation. See Aff. Slicker, C.R. Vol. III, pp 444-445.

Third, Telford expended additional savings from her local bank to excavate the property for the placement of a double wide manufactured home, C.R. Vol. I, pp 107 – 110; Telford paid a deposit on the property, C.R. Vol. II, p. 283.

Fourth, Telford extended additional loan fees of $18,000.00 for infra structure work on the property. C. Supp. R. p. 132.

Fifth, Telford purchased a double wide manufactured home one year earlier and which required a down payment of $65,000 to pay the difference between the mortgage and the sale. See exhibit "8" attached to Addendum for the purchase receipt and wire transmittal notice on the double wide manufactured home that is presently on the property.

All loans have defaulted as a result of theft of the properties as identified by the Slicker Affidavit, C.R. Vol. III, pp. 444 – 445, and as a result thereof, plaintiff's Idaho home has been attached as security to pay off the loans carrying an approximate principal balance of $235,000 to date.

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8. Constructive possession is a legal theory used to extend possession to situations where a person has no hands-on custody of the object. Most courts say that constructive possession, also sometimes called "possession in law," exists where a person has knowledge of the object plus the ability to control or use the object, **even if the person has no physical contact with it.** *United States v. Derose*, 74 F.3d 1177 [11th Cir. 1996]).

Yes indeed, the facts in the Akichika case are not even remotely similar to the instant case. Therefore, given all defendants had a hand in the tortious injury inflicted upon Telford, they are all liable to Telford under the Idaho Long Arm Statute. Appellees have wholly omitted these injuries from their Response brief.

Additionally, the Appellees have analyzed their phone contacts to the Idaho forum to the Akichika case rather than the Blimka case. Telford maintains that Blimka controls. Appellees stole Telford's phone devices out of her home during the seizure on August 10, 2011 and never returned them. See copies of some phone records filed in the case before the seizure as C.R. Vol. I, p. 149. Furthermore, when Appellants computers were finally returned, Onieda county had blocked Telford's navigation abilities and gutted Appellants hard drives of it's memory. See C.R. Vol. II, p 214-215. Telford sought a writ from judge Dunn but this was rejected as aforesaid. See C.R. p. 220. Nevertheless, the only communication that took place in Texas is when Telford appeared in Texas more than 33 days after she had purchased the property, to inquire into which property she had purchased. Otherwise all phone calls were directed to Telford at her Idaho residence. See Taylor v. Phelan, 912 F.2d 429, 433 n.4 (10th Cir. 1990) ("So long as it creates a substantial connection, even a single telephone call into the forum state can support jurisdiction.");

With respect to the use of a passive or active website which Appellees argue on pages 20-21 of their brief, Telford moves to strike this argument because the Appellees did not raise this argument in the lower court. Judge Dunn while acting as an advocate for appellees improperly raised this defense. Nevertheless, the website was active because all the materials to draw down and expedite the sale were posted on Smith County's website as in Blimka. "A website is not passive where it provides a means to purchase goods or products or services." See Holland America Line Inc. v. Wärtsilä North America, Inc., 485 F.3d 450 (9th Cir. 2007) CompuServe, Inc. v. Patterson, 89 F.3d 1257 (6th Cir. 1996) (posting information over the internet for purpose of selling products is not a passive website and meets the express aiming requirement to impose jurisdiction where the sales have an impact.). In the instant case, smith county's website was fully active, all one had to do is draw down their self authored contracts, provide the consideration for the bid which included deposits and /or letters of credit, and send the bid in. Accordingly, Smith County's website was interactive and promoted their sales nationally.

5. APPELLEES HAVE FAILED TO COMPETENTLY ADDRESS AND JURISDICTIONAL ARGUMENT RE TELFORD'S RICO CLAIMS OR CONSUMER PROTECTION ACT CLAIMS

Appellees have not addressed any of Telford's jurisdictional arguments under Telford's Idaho RICO Act or the Consumer Protection Act, other than to say the Telford cannot prosecute a crime. However the RICO act may be enforced by private parties acting as attorney generals as decisioned by the US Supreme Court in Rotella v. Wood, 528 U.S.549 (2000). Nevertheless, the Appellees have conceded to this court addressing Telford's Issues nos. 1,2,5 and 8 as **first impression questions.**

6. EXERCISING JURISDICTION OVER APPELLEES WOULD NOT VIOLATE THE DUE PROCESS CLAUSE

APPELLEES deny that Telford made any argument going to the due process prong of exercising jurisdiction in the state of Idaho in Telford's Opening Brief. **This is again a misrepresentation.** See pp. 33 -42 of Telford's Opening Brief talking about the scope of due process contacts with the forum state under CPA; under contracts; under loans; under equity claims such as specific performance and /or constructive trusts; and under the criminal personal jurisdiction statute as applied to a RICO claim

APPELLEES then attempt to limit their contacts by stating that Telford traveled to Texas to research the property and to submit a bid. Response Brief @ 24. **These facts are patently false**. Telford did not travel to Texas to research the property. **The record shows that Telford had already purchased the property by the time she traveled to Texas to improve the property 35 days later after the sale terminated.** The County Assessor admitted this fact in his own evidentiary submissions made to the Idaho Court approximately 33 days after Barber had been sued. Furthermore, As admitted in Appellees own Response Brief, Telford submitted the bid from the state of Idaho. See Response Brief. p. 16 paragraph 2.

The Due process analysis depends on the type of contacts with the forum. See **Yahoo Inc v. La Ligue Contre Lw Raciseme Et L'Antisenitiseme, 433 F.3d 1199 (9th Cir. 2006)** (We treat "purposeful availment" somewhat differently when addressing tort and contract claims.. In tort claims, we inquire whether a defendant "purposefully direct[s] his activities" at the forum state, applying an "effects test" that focuses on the

forum in which the defendant's actions were felt, whether or not the actions themselves occurred within the forum. See Schwarzenegger, 374 F.3d at 803 (citing **Calder v. Jones,** 465 U.S. 783, 789-90 (1984)). By contrast, in contract claims, we inquire whether a defendant "consummate[s] [a] transaction" in the forum, focusing on activities such as delivering goods to or executing a contract in the forum state. Both anaylsis' must be conducted to determine if one or the other will sustain jurisdiction

In terms of the effects tests, numerous courts have held that where the plaintiff becomes subject to an obligation as a result of a transaction, that jurisdiction is proper in the forum where the obligation is situated. Loan obligations created in the forum state to fund contracts creates contacts in the forum state where the payments on the loans are expected to generate. Rynone Mfg. Corp. v. Republic Indus., Inc., 96 S.W.3d @ 640, (Tex. App.-Texarkana 2002.) ("Calling a Texas resident in Texas to solicit a loan is a purposeful contact with Texas under a contracts anaylsis.) See also Pro Axess Inc. v. Orlux Distribution Inc., Nos. 03-4179, 03-4189 (10th Cir. 2005) (Exercising personal jurisdiction where a contract that was presented through the internet by a French defendant was signed in Utah and committed Plaintiff to monetary obligations in Utah in perfomance on the contract.); **Vreeken v. Lockwood Engineering, BV 218 P.3d 1150, 148 Idaho 89 (Idaho 2009)** (loans obtained locally for business purposes result in contact with forum.) same Hsu v. Liu, Case no.07-1046 (Texas Supreme Court 2007).

Also see fraud claims in general. See **Gates v. Collier, 378 F.2d 888 (9th Cir. 1967)** (With respect to that portion of Collier's claim which is based on fraud, § 377 of the Restatement recites that " When a person sustains loss by fraud, the place of wrong is where the loss is sustained, not where fraudulent representations are made."); United States v. Pascucci, 943 F.2d 1032, 1035 (9th Cir. 1991) (Jurisdiction lies where the plaintiff's assets are depleted through the wrongs commited by the defendant); Sinatra v. Nat'l Enquirer, Inc., 854 F.2d 1191, 1195 (9th Cir. 1988) (exercising personal jurisdiction over a Swiss Clinic that misappropriated Frank Sinatra's name through a series of advertisements claiming recommendation by high profile California resident.); Metropolitan Life Ins. Co. v. Neaves, 912 F.2d 1062, 1065 (9th Cir. 1990) (fraudulent letter sent to plaintiff in forum state was express aiming. Also see Calder v. Jones, 465 US 783, 789-90 (1984) (We take this opportunity to clarify our law and to state that the "brunt"

of the harm need not be suffered in the forum state. **If a jurisdictionally sufficient amount of harm is suffered in the forum state it does not matter that even more harm might have been suffered in another state.**). Also see **Blimka v. My Web Wholesaler LLC, 152 P.3d 594, 143 Idaho 723 (Idaho 2008)** (Blimka argues that the district court properly exercised personal jurisdiction over the defendants with respect to the fraud claim pursuant to Idaho Code § 5-514(b), and with respect to the contract claims pursuant to Idaho Code § 5-514(a). *Since we conclude that jurisdiction existed on the fraud claim, both with respect to My Web and DePalma, and because the fraud claim supports all relief granted in the judgment, we need not address the issue of jurisdiction over the contract claims.* See Keeton v. Hustler Magazine, Inc., 465 U.S. 770 (1984) and Calder v. Jones, 465 U.S. 783, 789-90 (1984). **In this case, the allegedly fraudulent representations were directed at an Idaho resident and the injury occurred in this state when Blimka departed with funds as a result of the fraud. Plaintiff paid large sums of money for defective goods that were mispresented to Blimka. Thus, we hold that Blimka's allegation of fraud was sufficient to invoke the tortious acts language of Idaho Code § 5-514(b) with respect to both defendants.** Morover, because the defendants purposefully directed their allegedly false representations into Idaho and the plaintiff suffered a pecuniary loss as a result of these false representations, the exercise of personal jurisdiction is presumed not to offend traditional notions of fair play and substantial justice under the Due Process Clause. See, e.g., Brainerd v. Governors of the Univ. of Alberta, 873 F.2d 1257, 1260 (9th Cir. 1989). **Idaho has an ever-increasing interest in protecting its residents from fraud committed on them from afar by electronic means.**). Citing **Calder et al v. Jones, 104 S. Ct. 1482, 465 U.S. 783 (1984)** ("the fact that the actions causing the effects in California were performed outside the State did not prevent the State from asserting jurisdiction over a cause of action arising out of those effects. . .the brunt of the harm was suffered or is being suffered in the forum state,. . . thereby invoking jurisdiction in the forum where the **"effects" of the out of state conduct is felt."** World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286, 297-298 (1980); Restatement (Second) of Conflict of Laws § 37 (1971).

Based on the damages alone which now place Telford's Idaho home at risk for foreclosure, there is no doubt that Idaho is the forum where Plaintiffs claims should be properly heard.

7. THERE EXISTS LACK OF CLERITY IN IDAHO RULES OF CIVIL PROCEDURE RULE 4(i)

See **State v. Yzaguirre, 163 P.3d 1183, 144 Idaho 471 (Idaho 05/25/2007)** (In determining its ordinary meaning "effect must be given to all the words of the statute if possible, so that no word will be rendered void, superfluous, or redundant." State v. Mercer, 143 Idaho 108, 109, 138 P.3d 308, 309 (2006) (quoting In re Winton Lumber Company, 57 Idaho 131, 136, 63 P.2d 664, 666 (1936)).

At pages 4-6 of plaintiff's amended opposition, plaintiff made the following argument citing Rhino Metals, Inc. v. Craft, 193 P.3d 866, 146 Idaho 319 (Idaho 09/24/2008) : "If a party wishes to insist upon the objection that he is not in court, he must keep out for all purposes except to make that objection. Pingree Cattle Loan Co. v. Charles J. Webb & Co 36 Idaho 442,446,211 P. 556, 557 (1922) (quoting from Lowe v. Stringham, 14 Wis. 222, 225 (1861). Rule 4 (i) provides in part that "If, after a motion under Rule 12(b)(2), (4), or (5) is denied, the party pleads further and defends the action, such further appearance and defense of the action will not constitute a voluntary appearance under this rule. Here, the defendants would not be pleading further in the action because they merged their rule 12(b)(6) petitions with their rule 12(b)(2),(4) and (5) petitions and argued all petitions on their merits in the first instance.

The defendants assert that another provision of rule 4(i) permits them to merge all defenses in one motion and thereby not make a general appearance.

The issue presented is whether this merger of motions is a grant to argue all of the defenses on their merits at once in the jurisdictional motion, or merely a grant to preserve the other defenses. Plaintiff contends that it is mere grant to preserve other defenses otherwise the defendants would render superfluous the other provision under rule 4(i) , to wit:

> "If, after a motion under Rule 12(b)(2), (4), or (5) is denied, the party pleads further and defends the action, such further appearance and defense of the action will not constitute a voluntary appearance under this rule.

Judge Dunn did not address this conflict in the rule in his October 3, 2011 Decision. This Conflict therefore should be settled by this court.

8. APPELLEES ARE NO ENTITLED TO ATTORNEYS FEES BECAUSE THE TRIAL COURT NEVER REACHED THE THE MERITS OF THE CLAIMS AND BECAUSE TELFORD

HAS PRESENTED A NUMBER OF FIRST IMPRESSION QUESTIONS

In *Puckett v. Verska*, 158 P.3d 937, 946 (Idaho 2007), this Court affirmed that a dismissal in a case where no final judgment was entered on the merits of the claims thus leaving plaintiff free to pursue her claims in another forum did not warrant attorneys fees. *Puckett*, 158 P.3d at 941, 946. *See also Rohr v. Rohr*, 800 P.3d 94, 99 (Idaho Ct. App. 1989). Here although Judge Dunn dismissed plaintiffs 'action against the specially appearing defendants with prejudice, this was clear error becausee rule 41(b) requires the dismissal to be without prejudice. See no. 7 in Telford's Opening Brief. Because Judge Dunn did not reach the merits of any Telford's claims, no attorneys fees is warranted because there is nor prevailing party.

Furthermore, this court cannot find that Telford pursued any claims frivolously, because Telford has presented no less than 4 questions of first impression for this court. See **Noreen v. Price Development Co. Limited Partnership, 135 Idaho 816, 25P.3d 129 (Idaho App. 2001),** the Noreen Court denied Attorney Fees under I.C. § 12-121 and I.R.C.P. rule 54(e)(1) on direct trial of the case and on appeal on the grounds that **when a party presents a question of first impression for decision to a court,** such proceeding cannot be construed as frivolous. Here, Noreen presented a first impression question as to the ramifications of a violation of the Assumed Business Names Act.

Last but not least, itis the defendants/Appellees who have committed a maassive fraud upon this court using the Idaho courts to commit this fraud. It is the Appellees who should be sanctioned in this action by entry of a default judgment in Telford's favor. Telford requests that this be done.

VERIFICATION

I, HOLLI TELFORD, verify under penalty of perjury that the foregoing facts and attached exhibits are true process that were submitted to the underlying court in the instant action, or is process relevant to APPELLEES attempt to taint this appeal until I am permitted to proceed before an impartial trial court and vacate the referenced contempt judgments which I contend are void ab initio.

Dated: March 26, 2013

Holli Telford

Certificate of service

The undersi ned certifies that she served the REPLY brief with attached ADDENDUM on the following parties on March 26 , 2013:
The Idaho Supreme Court electronically at : supremecourtdocuments@idcourts.net
Steve Adams electronically @ sadams@ajhlaw.com

Certificate of service

The undersigned certifies that she served the REPLY brief with attached ADDENDUM on the following parties on March 26, 2013:

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Holli Telford

ADDENDUM

1

IN THE DISTRICT COURT OF THE SIXHT JUDICIAL DISTRICT OF THE

STATE OF IDAHO, IN AND FOR THE COUNTY OF ONEIDA

* * * * * *

HOLLI TELFORD, Plaintiff, vs. SANDRA COPELAND, et al. Defendants	CASE NO. CV-2011-0066 **TRANSCRIPT OF OCTOBER 9, 2012 HEARING**

HONORABLE STEPHEN DUNN

Sixth Judicial District Judge Presiding

For Plaintiff :

Holli Telford
10621 S. Old Hwy 191
Malad City, ID 83252

For Defendant :

Stephen Adams
C. W. Moore Plaza
250 South Fifth Street, Suite 700
Boise, ldaho 83707 -7426

Following is the transcript of the Hearing held on October 9, 2012

TRANSCRIPT OF HEARING DATED OCTOBER 9, 2012

JUDGE DUNN : Rumor has essentially taken . . .she hasn't really officially quit her position yet. But, her arrangement with the Idaho Supreme Court is that she only works on Monday mornings until next week and then I'll have a new full time court reporter, next week. But I do not have a full time court reporter, I do not have the option of bringing in another court reporter today, and as a result of that and by order I'm directing that this hearing proceed without official court reporting, but it is being electronically recorded for future possibility of a transcript if needed. So I'm just advising the parties of that fact under the administrative rules. I am entering that order today. Any objection either one of you wish to make on the record relative that issue. Ms Telford.

MS. TELFORD : No

JUDGE DUNN : Mr. Adams.

MR. ADAMS : No your honor.

JUDGE DUNN : Alright . So, what we have. Um the Plaintiff, Ms. Telford has filed certain objections indicating that she wishes the record in this case to be added too Under Rule 28 of the Idaho Appellate Rules, the Defendants have also filed an objection to the clerk's record asking that certain things be included and thatother things be deleted. They filed that motion July 19th . The Plaintiff filed heres on July 25th. And then on August 6, 2012, the Plaintiff filed an objection to the Defendant's Objection. That is, that part of the Defendant's motion seeking to have certain things excluded from the record. Now, I'm just going to tell you what I think at the outset, and then you can, and then I'll let you make whatever additional argument you want. My initial thoughts after reviewing all of the motions from both sides is that, I really don't know what arguments are going to be presented to the Supreme Court. Do I think all of these records are really relevant to

the issues on appeal? Probably not. Uh. I think it's unlikely. But one thing I do know is that the Supreme Court has a lot more help than me and they got a lot more clerks and people working for them, and they're going to be able to sort this out. **I'm not worried about confusion of the record.** They're going to be able to sort out what's relevant and what isn't relevant to the issues that ultimately they decide on. An uh, so I'm not really worried about that. My inclination, just out of an abundance of caution, is just to let both of your have in the record whatever you want. That's my inclination. Having said that, so you know what my previous position is. I want to say that I have already made up my mind for sure, but I'm going to let both of you argue if you wish. But thats my inclination already, so that you don't get up there and want to argue something from the record that isn't in the record. And the Supreme Court's going to decide if what you want to argue is relevant or not . I think a lot of it might be irrelevant when it comes down to the final analysis. But that's my inclination. So having said that, Ms. Telford your the plaintiff, you filed a motion as well, you go ahead make whatever argument you wish.

MS. TELFORD : Yea. I brought the record that Diane sent me in the mail. And **I flagged one particular record which does not have the exhibits that were on the original record. I brought my computer today, so that you could see that I saved it as a pdf file on my computer. And I wanted to bring it up to the court and open it up . . . the properties on the pdf file on my computer indicate that this document was emailed too Diane and opposing counsel, because I save the gmail to counsel as well.** In October. . .

JUDGE DUNN : October 2012?

MS TELFORD : 2011,

JUDGE DUNN : October 2011 okay,

MS. TELFORD : It was re-emailed because one of the charges in the criminal case was that I had forged Diane's notary to this document. So I redid the document and re-emailed it to both counsel and Diane. **And the document that she has submitted to me in the clerk's record has a number of exhibits, critical exhibits missing from the document that was emailed to her.**

JUDGE DUNN : Okay.

MS TELFORD : **So I want to, if the court wants to see that, I'll bring my computer up to the court. . .**

JUDGE DUNN : **I'm not going to look at your emails.** The question I have for you is that despite what that records shows that you have in front of you, my question is. . . did you review the original clerk's file to determine whether or not the document you claim the you submitted by email, contains all of the exhibits that you think have not been included.

MS. TELFORD : No. But I did discuss with Diane a document , the July Document which exhibit "7"attached to that document was a bunch of photographs. And we had discussed that last year. This document is the one I am referring to that was dated in July, so I know it had these other exhibits attached to it and her record on appeal does not have those exhibits in it.

JUDGE DUNN : **And what particular exhibits are you talking about that you think have not been included and what was the date of the filing?**

MS. TELFORD : Well the original filing was the July 18th declaration.

JUDGE DUNN : Of what year?

MS. TELFORD : 2011.

JUDGE DUNN : Okay.

MS. TELFORD : And it had 17 exhibits attached to it. The seventh exhibit attached to

MS. TELFORD : And it had 17 exhibits attached to it. The seventh exhibit attached to it was a bunch of photographs of damages.

JUDGE DUNN : Well let me just ask this question.

MS. TELFORD : I'm not so much concerned with that particular exhibit, but exhibits . . . the last exhibit she put into the record is exhibit 3 that is attached to that declaration. **And it had 17 exhibits. Exhibits 4, 5, 6, which are on my computer pdf document as being sent to both counsel Adams and Diane . . .**

JUDGE DUNN : What was the date again?

MS. TELFORD : It's the July 18th declaration.

JUDGE DUNN : July 18th . . . (looking through the court file)

MS. TELFORD : It was signed on July 18th , but I don't know what date it was recorded. Let me see what date she has on the . . . stamped date she has on the document. August 1st is the stamped date she has on the document in the clerk's record that was provided to me. I actually considered emailing this document to Diane again so that she could have it on her email. . .

JUDGE DUNN : So it's not an affidavit of Holli Telford. . .

MS. TELFORD : **It is an Affidavit of Holli Telford . . .**

JUDGE DUNN : **in Opposition to Smith County's Motion To Dismiss And Motion For Summary Judgment. . .**

MS TELFORD : Hold on. It's an Affidavit of Holli Telford In Opposition to Defendant Smith County, and the date on it is August 1st. Thats Smith County, Gary Barner, blah, blah, blah.

JUDGE DUNN : **So your signature subscription is sworn to July 18th 2011**?

MS. TELFORD : **Yes and attached to that document is 17 exhibits. Thats what I'm questioning is that the attachments have been deleted from the record.**

JUDGE DUNN : Well there are three exhibits attached to that affidavit in the official court file.

MS. TELFORD : **Well then, the other records have been removed then.**

JUDGE DUNN : **Well let's not make accusations.**

MS TELFORD : **Well, Sir I'm going to make the accusations**

JUDGE DUNN : **No you're not going to make the accusations**

MS. TELFORD : **because I know I filed it that way and I saved it pdf.**

JUDGE DUNN : **Wait a minute. You can make whatever accusations you want. I'm not going to make judgments today as to your accusations. So your wasting your time. If your going to simply accuse somebody of taking documents out of a court file. You have no proof of that. I'm not accepting that. I simply telling you that. . . I'm telling you whats in the court file right now.**

MS. TELFORD : Okay. I do have proof.

JUDGE DUNN : Whats in the court file has three exhibits attached.

MS. TELFORD : **I do have proof because I have the actual record that was emailed to Diane. And it has all exhibits attached to it.** And in addition, if you go into the clerk's affidavit it goes up to 11 exhibits attached to it. On the last page, the signature page talks about exhibit "11", page 7 of the affidavit talks about exhibit "10". So the Affidavit refers to 11 exhibits. So if you look at page 8, page 7 of that affidavit its referring to exhibit "9" its referring to exhibit "10". So if you've only got

three exhibits attached to it, where are the rest of the exhibits?

JUDGE DUNN : **Can you tell me whether or not, an order had been entered at the time that this was submitted , you say was approximately July 18th and it's filed stamped August 1st, which allowed you to make filings by email?**

MS. TELFORD : **Your honor didn't disclude me from doing that until after I was arrested on the second felony charges. Because that was a material defense in my criminal case, which by the way ended up getting the criminal case dismissed with prejudice because one of my defenses was severe prosecutorial misconduct with record tampering.**

JUDGE DUNN : Well. Answer my question. Was there an order entered which allowed you to make filings by email at the time you submitted this affidavit. Yes or no.

MS. TELFORD : **You did not enter the order disallowing the filing of emails until after I was arrested in November.**

JUDGE DUNN : Well, then answer this question. Do the Idaho Rules of Civil Procedure allow you to make filings my email ?

MS. TELFORD : **They allow service by email under rule 5.**

JUDGE DUNN : **Do they allow filings into the court record by email without a court order?**

MS TELFORD : **It just says service. So whether or not you want to include that as service upon the court, is a broad term. But it says that service under rule 5 can be done electronically.**

JUDGE DUNN : Well tell me this. What exhibits do you claim are material to

your appeal, that you think have not been included in the record.

MS. TELFORD : **The ones that have not been, not think - I know, that have not been included in the record is, a redemption deed that was executed by Judge Joel Baker in Texas after this case was filed. It was prepared and authored by the law offices of Purdue, which is one of the defendants in the action, uh Purdue, Brandon, Felder and Collins, to obstruct my access to the property and to basically support the theft claim that I advanced later on in the case after I found out that they had stolen everything. That Deed is not in there. The letter from Lois Mosley indicating that I could go onto to the property and improve it and that her sale to me was final and conclusive, is not in there. There are over, one, two, three, four, five, six, seven, right, nine emails that were sent to me that are not included in there and I brought the paper record to those. There is an email from the law offices that were handling the sale which is Linebarger, Googan, Blair and Sampson indicating that they were going to send me the deeding documents. Those are critical records because one of the arguments I am making up on appeal is that this court acquired jurisdiction, personal jurisdiction over all of the defendants as part of a RICO conspiracy to deprive me and others of assets that were depleted in the state of Idaho.** I contend those documents are extremely relevant and I do have like I said, photocopies that I ran off just before I appeared to the court today. Those should be in the record.

JUDGE DUNN : **Well and I do note in the file, it's not a filed document.** I do note that there is placed in the file. A document which is similar to your

affidavit file stamped August 1st, 2011 which apparently you had brought to the clerk. There's a note provided by the clerk. No, there's a note from . . . attached to this document is a copy of a note from somebody. . . do you know who wrote that (Judge Dunn talking to clerk Skidmore)

SKIDMORE : Yea, One of the other clerks. . .

JUDGE DUNN : One of the other clerks wrote a note and attached it to this document, I dont know when it was supplied, stating this is a copy Holli L brought in to be switched with your faxed copies, and I dont know when this was submitted. **This is a duplicate of the affidavit to which certain exhibits are attached, and frankly, many of the things you have identified as supposedly, that were supposed to be to that, are attached to this.** There are some photographs and a written statement signed by Jamie Flores, and there is the supposed check you made to Gary Barber, **and there is a letter of approval from America First, there are a couple of emails from Debra Milling, there is the letter from Lois Mosley.. .**

MS. TELFORD : **Is the email from Debra Milling. . . does it say this document will becoming from Charlene Fugler at our office and you can acknowledge that you have received the document?**

JUDGE DUNN : Yes.

MS. TELFORD : **Okay. That's the deeding documents. Okay that's in there. The letter from Lois Mosley is in there. How about the emails?**

JUDGE DUNN : Well, these are what you submitted. These are documents that you apparently provided. Only the faxed document has the official file stamp. This is the one you say you sent by email.

MS. TELFORD : mumbled . Do you have this deed. This Deed should have been in

there as well. (mumbling)

JUDGE DUNN : Bunch of photographs, . . . I know what you want. (quits looking in the record). Alright. Mr Adams, and response to this particular issue.

MR. ADAMS : Yes your honor. Originally, I did not file an objection to Ms. Telford's request that the record be augmented. I thought she was referring to documents that had been actually filed with the court . I thought she was asking that the official record from the record be augmented. (Mumbing) If shes asking for additional documents that are not officially in the record, I do have an objection. Because I dont know what your talking about. I just wanted to make sure that I had what the court had. If I am missing something, I apologize because I thought she was just asking for an official update from the court. I'm concerned that we are going to have documents in front of the Supreme Court that are not officially filed in this court. My contention is that if that's what she wants to do is add additional records, I think the proper way to do that would be to do a motion for augmentation of the record before the Supreme Court as opposed to just an objection to this point. Because it sounds like she not asking for the documents officially in the court record but for additional records to be added. If I'm wrong, if she's just asking for augmentation of what was officially filed into the record, I dont want to argue about it, I just want to move forward. Im fairly confident about the content of the official record because I would always check with Diane and make sure I got my records. So I dont want to argue about that. If its something new than I do object. It should probably be done a different way., your honor. One other comment, with respect to filing by email, there has never been a latter from the

court authorizing filing by email. Nonetheless, were past that point and its not worth bring that up now.

JUDGE DUNN : Remind me, I havent look for that, uh the date of the order when I entered allowing filing by email.

MR. ADAMS : There was no order to that extent. I'm actually looking at the repository right now and I dont see anything saying filing by email can be allowed. Like I said, I think we're past the point of arguing about that is worthwhile. I prefer to get the record settled and just move forward.

JUDGE DUNN : I agree. You say I entered an order allowing filing by email, when was that?

MS. TELFORD : Your honor. I'm sure Diane remembers you telling her that, because she told me I couldn't email anymore documents to her.

JUDGE DUNN : Do you remember not allowing it ? (Talking to Diane.)

MS. TELFORD : You were not allowing anymore documents to be emailed to the court.

SKIDMORE : I dont remember.

JUDGE DUNN : Okay. Very well.

MS. TELFORD : Your honor, I did copy the gmail that I had sent to counsel. And as you know to copy something from an original file using pdf software, theres no way that can be forged. (PDF software does not allow alteration to the presenrd pdf file.). So I did copy the gmail with counsel receiving the documents, again that were earlier filed as the July documents. So these documents were sent to counsel that I am seeking to augment in the record. So if they dont have a stamp on it and the stamped document in the court's file missing the exhibits

is the only one that goes up to the Supreme Court, part of the procedure for augmenting a file to the Supreme Court is that you've got to prove that the document was filed with a stamp on it in the lower court. So if the document that I hand delivered to the clerk has more exhibits attached to it than the file stamped document, and theres no stamp on it, then I couldn't use that document to augment it to the Supreme Court. So this court is going to have to decide that issue now because these documents by the court's own admissions were submitted. And as well, there was an audiorecording on Lois Mosley because I recorded her phone conversations. That was submitted to the court and also submitted to counsel as an attachment by email.

JUDGE DUNN : Well, my ruling is this. I'm a new ruling. The ruling is that the Idaho Rules of Civil Procedure do not allow filing by email. And that as a result of that an attempted filing of documents by email is not permitted and is not part of this clerk's record. And so, you can have any document. . . Heres my ruling. Any document you want thats in the official clerk's record, that is file stamped as having been filed and received by the clerk can be included in the clerks record on appeal. No other document will be allowed.

MS. TELFORD : Your honor. I would object . . .

JUDGE DUNN : Thats my ruling.

MS. TELFORD : under rule 10. Because if the document has been grafted, or lost or however want to phrase it from that file, to obstruct my case, then I'm entitled to have that document re-introduced into the record.

JUDGE DUNN : Take it up with the Idaho Supreme Court.

MS TELFORD : I want a copy of this CD. And I would also like to ask the court at the county's cost to provde a transcript of this CD.

JUDGE DUNN : Your motion is denied. So that anything that is not in the official clerks record with a stamp on it, will not be included in the clerk's record . Any document that either party wishes to have included in the clerks record, which has been filed in the clerks record and which is not included in the clerks record, than that will be allowed.

MS. TELFORD : Okay, how about the document that doesn't have a date stamp on it.

JUDGE DUNN : Would you please let me finish Ms. Telford. Any objection. Mr. Adams. I'm simply going to make a ruling. Based on the statements you've already made, any objection that has been made by the defendant to documents or requests that they be removed from the clerks record, will not be removed. They will be allowed to be included.

MS. TELFORD : Your honor. How about the document that was not date stamped that has the additional exhibits that we just earlier discussed. But its not date stamped. It needs to be date stamped.

JUDGE DUNN : Why does it have to be date stamped. You simply brought it to the court . . .

MS TELFORD : Because I cant augment it in unless she does a supplemental record and introduces that in a supplemental clerks record and numbers it, because it's not date stamped. So I cant go up to the Supreme Court and ask them to supplement it into the supreme court record because it has no date stamp, but it's in the clerk's file with the documents claimed missing. **I personally believe that everything should be filed electronically because it prevents court officials from messing with files.**

JUDGE DUNN : **Well it's coming.**

MS. TELFORD : **And I hail the day it does because PACER in the federal system**

makes it a lot harder to commit fraud by an attorney, and if pro se ECF filing, a court official. And she has the CD recording that was sent to counsel and to her and I need that entered into the record too, so that the CD can be submitted to the Idaho Supreme Court as well on contacts with Lois Mosley for voice identification purposes. Lois Mosley was the selling officer of the property in question in Texas. I need a stamp in order to augment into the Supreme Court.

JUDGE DUNN : I'm looking at rule 30 of the Idaho Appellate Rules.

ATTY ADAMS : I am too your honor.

JUDGE DUNN : And what it says is the parties may move the Supreme Court, to augment or delete from the clerk or agency record, must be accompanied by a statement setting forth the specific grounds and attaching a copy of any document sought to be augmented to the original motion, with two copies of the motion, which document must have a legible filing stamp of the clerk indicating the date of it's filing or the moving party must establish by citation to the record or transcript that the document was presented to the district court. Thats the rule that applies here. And that motion has to go to the Idaho Supreme Court. I dont see anything here that requires this court to rule on that preliminarily.

MS. TELFORD : It does state that it has to have a stamp on it correct.

JUDGE DUNN : It says that it has to have a stamp on it or, listen, or the moving party must establish by citation to the record or transcript, that the document was presented to the district court. So you've got to establish either a file stamp or citation to the record. There is no.

MS TELFORD : Well...

JUDGE DUNN : You've got to let me talk. Please quit interupting me. There is no way that I can have the clerk file stamp something that nobody knows when it was brought in. I can file stamp it today, do you want that. I'll allow that, then you can present it to the Idaho Supreme Court and make whatever argument you wish as to why you think the record should be augmented with these documents. But nobody knows when this so called document was filed. This document was allegedly presented to the clerk as a substitute for some document that is officially file stamped and does not have the same number of exhibits. There is no way I know when this was done. So I cant file stamp it at some past date that no one knows when it was. I cant do that. If you want to try and augment this record, with this document, fine we'll file stamp it today and you can make your argument before the Supreme Court. I don't care what you do relative to that and they can make their decision. They make the decision as to whether the official clerk's record is or is not augmented. I don't make that decision.

MS. TELFORD : Can I testify when I came in and brought that document. Because I didn't fax the pictures because they wouldn't have been competent images.

JUDGE DUNN : You can submit an affidavit supporting your request to augment this record.

MS. TELFORD : Okay, I'll submit that by tommorrow morning.

JUDGE DUNN : But as for the ruling today, my obejctive here and my authority is to determine whether or not anything that is officially in the clerk's record and has a file stamp should be added or deltered from the clerk's record . My ruling on that issue today is, that anything either side wants that is officially part of this record may be included in the clerk's record. Anything that is an objection or any request that anything be deleted

from the clerk's record is denied as to both parties. That's my ruling.

MS. TELFORD : Your honor, one last thing on that matter. I can attest to the court today that since the criminal proceedings were terminated, I have not been in the court or at the clerks office with exception on three or four occassions where I was making payments on the restitution fee which I am presently proceeding with a federal habeas corpus on, or not restitution fees, but the fines in the criminal delay case. So I have not brought in any records for this case since before I was arrested in November of 2011 because I was on a restricted bond which provided that I could not contact anybody in this county, otherwise I would be thrown back in jail where they deprive me of my blood pressure medications and I suffer another stroke. Be that as it may, I have not filed anything in this record. So with that in mind, that representation made to the court in mind, that document with the clerks handwriting on it had to have been in the record before I was arrested on November 21, 2011, in preparation for the hearing that was supposed to be conducted in this case on November 21, 2011, because that hearing was taken of calander because I was arrested by Semrad right aside the courtroom door in appearance for that hearing.

JUDGE DUNN : So whats your point.

MS. TELFORD : My point is that the document, you don't know when the document was submitted. It had to have been brought in, or when it was submitted to the clerk, it had to have been submitted before that date.

JUDGE DUNN : Well thats your argument. Make your argument to the Idaho Supreme Court because I can't augment the record with a document that has not been officially filed. I don't have the authority to do that.

MS. TELFORD : Well you said I could file an affidavit of augmentation and your going to file stamp it today right.

JUDGE DUNN : I'm going to file stamp it when it's filed. I'm not going to file stamp it, the clerks going to file stamp it when it's filed. That's not today. Its whenever you said you were going to do it. You said you would do it by tommorrow.

MS. TELFORD : Okay. I'll file the affidavit of augmentation and I'll attach the missing exhibits to my affidavit.

JUDGE DUNN : Just file your affidavit. Whatever argument you want. Make your argument to the Idaho Supreme Court because they can augment the record, and if they chose to do so, then they chose to do so. That's not my decision. My role today is to decide what goes into the clerk's record and what doesn't as of today.

Transcriber's Certificate

I, STEVEN FRITTS, bonded transcriptionist and notary for the State of Utah, in and for the County of Salt Lake, DO HEREBY CERTIFY ON MY BOND that I am authorized to take and give oaths in the state of Utah, that I received the electronic recording of the hearing of the proceedings herein described, which was heard on October 9, 2012, before the Honorable Stephen Dunn, Sixth Judicial District Judge for the State of Idaho in and for the County of Oneida, that I transcribed said tape into typewriting, and that the within and foregoing constitutes and is a full, true and correct copy of the transcript of said evidence and proceedings, said transcript consisting of Seventeen (17) pages.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 3rd day of January, 2013.

STEVEN REY FRITTS
Notary Public
State of Utah
Comm. No. 603335
My Comm. Expires Nov 17, 2014

/Steven-Rey Fritts/
STEVEN FRITTS
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2

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IN THE UNITED STATES DISTRICT COURT FOR THE STATE OF WYOMING
CASPER DIVISION

MARTI LUNDAHL	:	**Case No. 2012- CV - 280-S**
Plaintiff	:	
vs.	:	**Plaintiff's Motion For A Declaratory Decree Finding The March 17, 2004 Utah District Court NAR Attorneys Fees Judgment And The April 3, 2003 Utah Supreme Court Civil Contempt And Attorneys Fees Judgment, Both Entered Against Holli Lundahl VOID As A Matter Of Law And To Vacate Same**
AMERICAN BANKERS INSURANCE COMPANY OF FLORIDA, INC	:	
Defendants	:	**To be heard by an impartial tribunal**

This Court Has Sua Sponte Jurisdiction To Vacate VOID Judgments That Encumber A Record

COMES NOW Plaintiff and files this motion for declaratory decree finding the March 17, 2004 Utah District Court NAR Attorneys fees Judgment and the April 3, 2003 Utah Supreme Court Civil Contempt and Attorney Fees Judgment referenced in this court's February 27, 2013 OSC, void as a matter of law, and to thereby vacate these judgments under this court's sua sponte inherent powers to not permit void judgments to encumber a record.

The Wyoming Supreme Court held in re **Emery v. Emery, 404 P.2d 745 (Wyo. 08/09/1965)** : "The provisions of WY Stat. § 1-325, are irrelevant when the Plaintiff seeks to vacate a judgment wholly void for lack of jurisdiction, 30A Am.Jur., § 693, p.

659. **The power of a court to vacate a void judgment is regarded as inherent and independent of any statutory authority. A Court will not permit a void judgment to encumber a record and will vacate the ineffectual entry thereof on application at any time.** 49 C.J.S. Judgments § 267, pp. 480-481. **A void judgment is not binding. *It confers no rights and equitable relief is mandated to prevent harm resulting from the fact that the judgment appears or purports to be valid.*** A.L.I. Restatement, Judgments, § 117, p. 565 (1942).

Attached hereto as exhibit "1" is an authenticated copy of the Void NAR judgment. Attached hereto as exhibit "2" is an authenticated copy of the Void Civil Contempt Judgment entered by the Utah Supreme Court. Both void judgments are now being filed with this Court to attack impending contempt charges against Plaintiff.

INTRODUCTION

Void Judgments Are Subject To Collateral Attack Under The Declaratory Judgment Act If They Are Prima Facially Void And They Are Presented For The Purpose Of Inflicting Harm Against A Party To The Case

The State of Texas recently decided a case where the Plaintiff in the action collaterally attacked a void judgment in an offensive maneuver in re **Wagner v. D'Lorm, 315 S.W.3d 188 (Tex.App. Dist.3 2010).** Here, the Defendant had obtained a void judgment against the Plaintiff in another court. Plaintiff brought a declaratory judgment act case in the jurisdiction of his choosing to collaterally attack the void judgment. The Defendant moved to dismiss the plaintiff's action for lack of subject matter jurisdiction, asserting that because plaintiff did not seek relief before the court that rendered the judgment, Plaintiff could not seek collateral relief in a foreign court. The Court of appeals rejected the Defendant's claim and granted Plaintiff full relief. The analysis of that court was as follows:

> **Appellant Ronald R. Wagner sued appellees Roberto D'Lorm and Edward P. Dancause in Travis County district court seeking a declaration that a default judgment previously obtained by D'Lorm and his attorney, Dancause, against Wagner in a Zapata County district court was void.** D'Lorm filed a plea to the jurisdiction asserting that the trial court did not have subject-matter jurisdiction to declare void the judgment of another district court. Wagner moved for summary judgment on his declaratory - judgment claim. The trial court granted D'Lorm's plea to the

jurisdiction and denied summary judgment for Wagner, finding summary judgment "improper" for jurisdictional reasons.

In a single issue on appeal, Wagner asserts that the trial court erred in granting D'Lorm's plea to the jurisdiction and in denying his motion for summary judgment because the Zapata County default judgment was void and, therefore, could be collaterally attacked in another court. We will reverse the trial court's order and remand the cause for further proceedings.

Analysis:

In his sole point of error, Wagner asserts that the trial court erred when it granted D'Lorm's plea to the jurisdiction and denied his motion for summary judgment. Wagner contends that he mounted a valid collateral attack on the Zapata County judgment by alleging facts showing that the judgment was void because the Zapata County court lacked jurisdiction over him as he was not named a party to that suit. Wagner asserts that "because the [Zapata County] judgment is and was void . . . it could be collaterally attacked in any court." D'Lorm counters that Wagner failed to properly employ the options available to him to challenge the Zapata County judgment. Citing McEwen v. Harrison, 345 S.W.2d 706 (Tex. 1961), **D'Lorm contends that Wagner should have filed a bill of review in the Zapata County district court that rendered the default judgment. Because Wagner failed to file a bill of review in Zapata County during the time allowed, D'Lorm asserts that he has "waived any rights to attack the [default] judgment."**

The Travis County District Court's Subject-Matter Jurisdiction

In this appeal from the grant of D'Lorm's plea to the jurisdiction on the pleadings, our task is to decide whether Wagner has pleaded sufficient jurisdictional facts to invoke the trial court's subject-matter jurisdiction, using a liberal construction of his pleadings. Miranda, 133 S.W.3d at 226. In his petition, Wagner alleged that the Zapata County default judgment is void because he was not named as a party to the prior lawsuit resulting in a judgment against Wagner.

A judgment is void, and thus may be collaterally attacked, if the rendering court had "no jurisdiction over a party or his property, no jurisdiction of the subject matter, no jurisdiction to enter the particular judgment, or no capacity to act as a court." Austin Indep. Sch. Dist. v. Sierra Club, 495 S.W.2d 878, 881 (Tex. 1973); see also Browning v. Prostok, 165 S.W.3d 336, 346 (Tex. 2005) (same); Mapco, Inc. v. Forrest, 795 S.W.2d 700, 703 (Tex. 1990) (orig. proceeding) (same). Ely v. United States Coal & Coke Co., 243 Ky. 725, 49 S.W.2d 1021; **McDonald v. Mabee, 243 U.S. 90, 37 S.Ct. 343, 61 L.Ed. 608 (1917).** L.R.A. 1917F, 458; Restatement of the Law of Judgments, §§ 6, 8, and 117; 1 Freeman on Judgments, §§ 226, 228, and 339. For a court to have personal jurisdiction over the defendant, the defendant must be amenable to the jurisdiction of the court and the plaintiff must have invoked that jurisdiction by valid service of process on the defendant. Kawasaki Steel Corp. v. Middleton, 699 S.W.2d 199, 200 (Tex. 1985). This Court has also held that a judgment may be collaterally attacked because of "fundamental error." Texas Dep't of Transp. v. T. Brown Constructors, Inc., 947 S.W.2d 655,

659 (Tex. App.--Austin 1997, pet. denied). Fundamental error occurs where "the record shows the court lacked jurisdiction or that the public interest is directly or adversely affected as that interest is declared in the statutes or the Constitution of Texas." Pirtle v. Gregory, 629 S.W.2d 919, 920 (Tex. 1982). A court's rendition of judgment against a party not named in the suit is fundamental error. Mapco, Inc. v. Carter, 817 S.W.2d 686, 687 (Tex. 1991).

Here, Wagner pleaded that he was neither named as a party nor served with process. If true, that would mean that the Zapata County district court committed fundamental error by rendering judgment against Wagner because he was not a party, see id. The default judgment rendered against him would be void and subject to collateral attack. See Austin Indep. Sch. Dist., 495 S.W.2d at 881. **The phrase "jurisdictional power" means "'jurisdiction over the subject matter, the power to hear and determine cases of the general class to which the particular one belongs.'"** Middleton v. Murph, 689 S.W.2d 212, 213 (Tex. 1985) (quoting Deen v. Kirk, 508 S.W.2d 70, 72 (Tex. 1974)).

D'Lorm asserts that, because the Zapata County court had subject-matter jurisdiction in that case and the time for filing an appeal from that judgment has expired, Wagner's only remedy "to attack" the judgment was a proceeding in the nature of a bill of review. We disagree. The purpose of a direct attack is to change the former judgment and secure the entry of a correct judgment. Austin Indep. Sch. Dist., 495 S.W.2d at 881. Here, Wagner does not seek to "correct" the Zapata County judgment, nor does he seek to "change" it and secure entry of a "correct judgment" in lieu thereof. **Wagner brought his attack in a different court from the one that rendered the judgment under attack. Wagner's attack here is properly classified as collateral, not direct.** This Court has held that, in a collateral attack, the challenger must show in the record that the judgment was obtained without jurisdiction. Narvaez v. Maldonado, 127 S.W.3d 313, 317-18 (Tex. App.--Austin 2004, no pet.). Alfonso v. Skadden, 251 S.W.3d 52, 55 (Tex. 2008) ("'In order for a collateral attack to be successful the record must affirmatively reveal the jurisdictional defect.'" (quoting White v. White, 179 S.W.2d 503, 506 (Tex. 1944))). See also Browning, 698 S.W.2d at 363 (appeal from declaration rendered by one court declaring judgment of another court void is collateral attack); Empire Gas & Fuel Co. v. Albright, 87 S.W.2d 1092, 1096 (Tex. 1935) (attack on judgment of one court in another court is collateral attack);

In light of the foregoing, we hold that Wagner's pleadings were sufficient to give the trial court subject-matter jurisdiction to adjudicate his claims for declaratory relief. The court therefore erred when it granted D'Lorm's plea to the jurisdiction. We sustain that portion of Wagner's issue on appeal.

We hold that the trial court had subject-matter jurisdiction to hear and consider Wagner's declaratory judgment suit. We therefore reverse the district court's dismissal order and remand the cause to that court for further proceedings.

Likewise, with respect to contempt/injunction orders unconstitutionally obtained. The Supreme Court held in **Baker v. Gen Motors Corp, 522 U.S. 222, 234-36, n 9; 118**

S Ct 657; 139 L.Ed.2d 580 (1998) ("if the sister state injunction order was not constitutionally obtained, full faith and credit cannot be accorded that judgment in the forum where that judgment comes at issue. Accord in **Chapman v. Krutonog, No. B214451 (Cal.App. Dist. 2010);** Advanced Bionics Corp. v. Medtronic, Inc. (2002) 29 Cal 4th 697, 708 . Void judgments are never given credit. Prather v. Loyd, 86 Idaho 45, 50, 382 P.2d 910, 915 (1963) (**"[a] void judgment is a nullity, and no rights can be based thereon; it can be set aside on motion or *can be collaterally attacked at any time.*"**). Other courts have also held that full faith and credit applies equally to equity decrees as it does money judgments. McElroy v. McElroy, 256 A.2d 763 (Del.Ch.1969); Higginbotham v. Higginbotham, 92 N.J. Super. 18, 222 A.2d 120 (App.Div.1966); Miller v. Miller, Supra ; Restatement (Second) of Conflict of Laws § 102 (1971); 50 C.J.S. Judgments § 889 h. (1947). "Full faith and credit extends to foreign equity decrees or money judgments which order an in personam payment of money or conveyance of property to another. Varone v. Varone, 359 F.2d 769 (7th Cir.1966); Rozan v. Rozan, 49 Cal.2d 322, 317 P.2d 11 (1957); Ivey v. Ivey, 183 Conn. 490, 439 A.2d 425 (1981); Weesner v. Weesner, 168 Neb. 346, 95 N.W.2d 682 (1959); Higginbotham v. Higginbotham, supra; Restatement (Second) of Conflicts of Laws § 102 comment d (1971)

While the judgments at issue here are not against Plaintiff, both the Defendant and this court are seeking to enforce them against Plaintiff as an alter ego of Holli. Irrespective that the concurrently filed affidavit of Marti Lundahl establishes as a matter of fact and law that Holli and Marti are different persons, it is Plaintiff's position that the void judgments directed against Holli should be declared void so as not to impact plaintiff any further in this or any other proceeding in which plaintiff may become a party. Furthermore, the age of the judgments being attacked bears no consequence. See *United States v. One Toshiba Color TV*, 213 F.3d 147, 157 (10th Cir. 2000) (noting if a final judgment is void, "no passage of time can transmute [it] into a binding judgment".).

Uncontroverted Facts Rendering Both Judgments Void Ab Initio

1. In March of 2002, a dispute arose concerning a $100 balance due on the Respondent's collective family's dental account - when the dental service (installing a cap) had not yet been completed. The dentist assessed the Lundahls, a 30% surcharge on the debt - in violation of the usury laws. A check was tendered to the

dentist for $100, the actual amount of the dental bill. The Lundahls refused to pay the 30% surcharge. The dentist sent the check to a collection agency, NAR Inc., who assessed Kelli Lundahl another 30% collection fee. The actions of the dentist and NAR Inc violated both the usury laws of the state of Utah, Utah's Consumer Protection Act, and the Federal Unlawful Debt Collection Practices Act.

2. On March 9, 2002, North American Recovery Services Inc. aka "NAR", through their attorney Olson caused the Lundahls to be served with a dunning letter and a small claims complaint, both documents which demanded $597.21 to avoid the small claims action and ruination of Kelli Lundahl's credit. (See exhibit "3" attached for dunning letter and complaint.). Kelli had 20 days to respond.

3. Ten days later, on March 19, 2002, Kelli asked Holli to deliver a check to NAR for the full amount demanded in the complaint in order to mitigate any damages to Kelli's credit which was paramount to a pending commercial transaction. On the bottom of the check, Kelli wrote that the check was being paid under duress because of extortion threats made against Kelli's credit. Holli personally delivered the check to OLSON at Olson's law offices in Salt Lake, which also was the offices for NAR Inc. (See exhibit "4" attached for this check bearing the disclaimer and the canceled side of the check showing that the check was negotiated on March 19, 2002, as soon as it was tendered to Olson on behalf of his business NAR Inc.). At the time of delivery, **Holli obtained a promise from Olson to dismiss the state small claims action as moot. The check cleared Olson/NAR's account on March 21, 2002.**

4. Instead of dismissing the complaint, 6 days after Olson had negotiated the payment on behalf of his company NAR, Inc. (North American Recovery Services, Inc.). Olson authored and filed a certificate of default against Kelli Lundahl on March 27, 2002 **without notice, and 30 minutes later appeared before the judge ex parte and obtained a default judgment for three times the whole amount claimed in the complaint and in the dunning letter.** (Refer back to Ex. "3" attached for the dunning letter and complaint.). The Default judgment claimed $671.69 against Kelli Lundahl and $444.60 against John Behle, the latter who did not receive any services, owed no debt and was never served any process. (See exhibit "5" attached for default and default judgment.).

5. NAR subsequently reported the void default judgment against Kelli's credit

report in the amount of $1,116; thus interfering with Kelli's pending commercial transaction. (See Exhibit "6" attached for this false report made against Kelli's credit report..) Kelli learned of the false reporting when she was denied credit in her pending commercial transaction.

6. Kelli subsequently filed a motion to vacate the default judgment based: (a) on fraud upon the court by attorney Olson, (b) because the judgment was void for lack of a case or controversy at the time the judgment was entered, and (c) because the default judgment was for three times the amount pleaded in the complaint in violation of URCP rule 54(c). On May 29, 2002, Judge Fratto vacated the default judgment but did not sanction his friend attorney Olson for the fraud that was comitted. (See exhibit "7" attached for vacation order.). Olson nevertheless kept the false report on Kelli's credit report thus s ustaining an unlawful debt collection violation as a matter of law.

7. Kelli shortly thereafter, sued NAR for violations of the Fair Debt Collection Practice Act and Utah's Consumer Protection Practices Act. At the time Kelli filed her counterclaim, Kelli paid a separate filing fee and jury fee. Kelli caused the counterclaim to be immediately served upon NAR through it's registered agent, Attorney Olson.

8. After Attorney Olson received service of Kelli's complaint, Olson appeared before the clerk's office on June 17, 2002, **removed Kelli's Counterclaim from the court's file** and then filed a motion to dismiss the collection case with prejudice as settled between the parties. The face of the motion bore no notice to the Lundahls nor was it signed by Kelli Lundahl. (See first part of exhibit "8" attached.). The next day, Attorney Olson again met ex parte with Judge Fratto and colluded with this judge to sign an order to dismiss the case with prejudice - completely disregarding notice and hearing rules for the state of Utah. Moreover, Kelli was wholly unaware of any motion to dismiss the case and had never negotiated to settle any claims against NAR. (See second part of exhibit "8" attached for the order dismissing Kelli's case with prejudice on June 18, 2002, without Kelli's knowledge.).

9. Kelli learned about the dismissal when she appeared at the clerks' office to file an amended counterclaim with Holli as the assignee of all claims. Kelli filed another motion to vacate the dismissal order based upon yet another fraud upon the court by atty Olson. Kelli also asked that Fratto be recused for twice violating the Code of

conduct for judges. Judge Fratto did recuse and the NAR case was re-assigned to Judge Lubeck. On June 6, 2002, Judge Lubeck issued an order which raised concern about file tampering given the removal of Kelli's counter-complaint from the court's file. Judge Lubeck vacated Judge Fratto's dismissal order and instructed Kelli to file another copy of her counter-claim complaint with the court. (See exhibit "9" attached for Lubeck's order vacating the dismissal order and instructing the clerk to reconstruct the court file with Kelli's missing pleadings.). Attorney Olson was never disciplined for his conduct irregardless of Kelli's numerous petitions that he be so disciplined. [1] Kelli assigned all claims to Holli as another obligor of the debt and because the chose in actions in Kelli's counter-claim complaint were assignable under the law. [2]

10. After Judge Lubeck's order reinstating the case, attorney Olson arranged to have the case unilaterally transferred to another judge, Judge Quinn, who was very good friends with Olson.[3] After the transfer to Judge Quinn's court, Olson grafted Holli's Amended counterclaim from the court file leaving Kelli's reconstructed counterclaim complaint as the operative complaint.

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1. It is well-settled that courts have the authority to direct investigation into an attorney's license where necessary to protect the public. See id.; In re Ruffalo , 390 U.S. 544, 550 (1968) Theard v. United States, 354 U.S. 278, 281 (1957); Ex parte Wall, 107 U.S. 265, 288-89 (1882).

2. Chose in actions are generally assignable. Capps v. FIA Card Servs., N.A., Docket No. 35891 (Idaho Supreme Court Oct. 2010). McCluskey v. Galland, 95 Idaho 472, 474-75, 511 P.2d 289, 291-92 (1973). An assignment may be done in such a way to be construed as a complete sale of the claim. 6 Am.Jur.2d Assignment § 147 (1999). An assignment of the chose in action transfers to the assignee and divests the assignor of all control and right to the cause of action, and the assignee becomes the real party in interest. McCluskey, 95 Idaho at 474, 511 P.2d at 291. Only the assignee may prosecute an action on the chose in action. Id. Assignment" is defined as "the transfer of rights or property." BLACK'S LAW DICTIONARY 115 (7th ed. 1999). American Jurisprudence, Second Edition, defines "assignment" as: a transfer of property or some other right from one person (the 'assignor') to another (the 'assignee'), which confers a complete and present right in the subject matter to the assignee. See also England v. Mg Investments, Inc., 93 F.Supp.2d 718 (S.D. W. Va., 2000) (Fair Debt Collection Practice and RICO claims are assignable and the assignee takes subject to all the defenses and all the equities which could have been set up against the instrument in the hands of the assignor at the time of the assignment.").

3. See Republic Royalty Co. v. Evins, 931 S.W.2d 338, 342 (Tex. App.-Corpus Christi 1996) (..."cases should not be transferred arbitrarily once a lawsuit has been randomly assigned to a particular court."); Fina Oil & Chem. Co. v. Alonso, 941 S.W.2d 287, 290 (Tex.

When Holli learned about the grafting of her amended complaint, she filed a mandatory intervention motion under rule 24(a) given all claims before the court had been assigned to Holli. Holli supported her intervention motion with a stamped copy of her First Amended Counterclaim which had been purloined from the record by NAR's counsel after the transfer from Judge Lubeck's court.

11. NAR summarily opposed Holli's intervention motion by self servingly asserting that Kelli had not assigned her claims. In her response, Holli provided the court with Kelli's assignment contract dated June 11, 2002.

12. When the correct amount of time had passed, Holli then filed two separate notices to submit for decision to Judge Quinn. Judge Quinn ignored Holli's notices to submit for decision. Accordingly, Holli filed a mandamus writ as authorized under Utah law pursuant to Barnard v. Murphy, 852 P.2d 1023 (Utah App. 1993) commanding Judge Quinn to address her notices to submit for decision. [4]

13. In the interim, Judge Quinn compelled the assignor Kelli to appear at

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App.-Corpus Christi 1996, no writ). Allowing arbitrary transfers "undermine[s] the random assignment system within the courts and encourage[s] improper forum or judge shopping by the parties"..."); See also McCuin v. Texas Power & Light Co., 714 F.2d 1255 (5th Cir. 1983)(violation of the random selection process ....renders the entire process null and void as Congress intended the random selection process "to be absolute to avoid any bacterium of impugnment.").

4. See Barnard v. Murphy, 852 P.2d 1023 (Utah App. 1993) (We grant the writ and direct judge Murphy to act on Barnard's notices to submit for decision.). "Mandamus is the highest judicial writ and is issued only when there is a specific right to be enforced, a positive duty to be performed, and no other specific remedy." Littlefield v. Williams 343 S.C. 212, 540 S.E.2d 81 (2000); Willimon v. Greenville, 243 S.C. 82, 132 S.E.2d 169 (1963). A party seeking mandamus relief must show that (1) the trial court had a legal duty to act, (2) there was a demand for performance, and (3) there was a refusal to act. Wang v. Chertoff, 2009 U.S. Dist LEXIS 23146 (D. Idaho Mar. 23, 2009); Stoner v. Massey, 586 S.W.2d 843, 846 (Tex.1979). The Idaho Supreme Court has held that mandamus is the proper remedy for one seeking to require a public officer to carry out a clearly mandated ministerial act which is not discretionary. Cowles Publ'g Co. v. Magistrate Court, 118 Idaho 753, 760, 800 P.2d 640, 647 (1990). Numerous courts have held that where an official fails or refuses to rule on or decide matters before the court, mandamus is proper to compel the official to perform his duties under the law. See Nadarajah v. Holder, 569 F.3d 906 (9th Cir. 2009) (Mandamus petition filed in the Ninth Circuit granted to compel the district court to decide a petition that had been pending.); Sedighi v. Holder, No. 07-1881, 2009 U.S. Dist. LEXIS 56875 (D. Or. July 2, 2009) (The court found that agency officials did not adjudicate plaintiffs' applications and ordered them to do so under its mandamus authority.); Chowdhury v. Siciliano, No. 06-07132 (N.D. Cal. May 13, 2008) (Mandamus proper to direct Magistrate to perform ministerial duties); Elkhatib v. Bulger, No. 04-22407, 2006 U.S. Dist. LEXIS 60485 (S.D. Fla. Mar.14, 2006) (mandamus granted to compel adjudications of claims before the court as in violation of the procedural rule of speedy disposition of claims.).

the summary judgment hearing to argue the claims belonging to Holli. By law, Judge Quinn should have either dismissed the action without prejudice or stayed the action until Holli was installed as the true party in interest. See Stank v. Jones, 404 P.2d 964, 17 Utah 2d 96 (1964) (Only the assignee may prosecute assigned chose in actions.). Loporto v. Hoegemann, 1999 UT App 175 (1999).

14. On January 12, 2003, Holli filed a mandamus Writ with the Utah Supreme Court on the grounds that Judge Quinn refused to act on Holli's notices to submit for decision re Holli's intervention motion. Judge Quinn was immediately served with this mandamus writ.

15. On January 31, 2003, Holli filed chapter 13 bankruptcy. Thereupon, the NAR lawsuit immediately became an asset of Holli's bankruptcy estate subject to the automatic stay. See 11 U.S.C. § 521(a)(1)(B) (2006). The debtor's estate includes "all legal or equitable interests of the debtor in property," "wherever located and by whomever held." Id. § 541(a)(1). [5]

16. To moot this writ, on February 14, 2003, Judge Quinn entered a final judgment in the state NAR action which addressed Hollis notices to submit for decision by joining Holli to the state litigation as the assignee thereto and thereafter sua sponte dismissing Hollis counter - claims with prejudice without allowing Holli the opportunity

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5. "The stay applies to all attempts to obtain control over causes of action that areproperty of a bankruptcy estate." 3 Collier on Bankruptcy ¶ 362.03[5], at 362-20, 21 (Lawrence P. King ed., 15th ed. 1997) . See Young v. Repine, No. 06-20807. July 22, 2008 (5th Cir. 2008) (The legal conclusions applied were: "Civil contempt proceedings are conducted to exact usually a monetary penalty against the alleged contemnor. The monetary penalties reduce the value of estate assets in the bankruptcy estate and are construed as an attempt to obtain control over causes of action that are property of the bankruptcy's estate. As such, any non-bankruptcy court contempt proceeding which seeks to create a debt against the debtor or to diminish the value of estate assets, is strictly prohibited by the automatic stay of the bankruptcy code." In re Chaparro Martinez, 293 B.R. 387 (Bankr. N.D. Tex. 2003); Foster v. Heitkemp, 670 F.2d 478 (5th Cir. 1982) (The automatic stay provision remains in effect as concerns all acts attempting to gain control over property of an estate. Any action endeavoring to obtain control over property of an estate is void.). Thus, "[a]ny action in which the judgment may diminish" an asset of the bankruptcy estate "is unquestionably subject to a stay under this subsection." Concurring in re Johns Manville Corp., 33 B.R. 254, 261 (Bankr. S.D.N.Y. 1983)) ; In re Gruntz, 202 F.3d 1074, 1082 (9th Cir. 2002) ; And In re Atkins, 176 BR 998, 1006 (Bankr. D. Minn. 1994). The automatic stay as applied to a bankruptcy estate does not terminate until a final order has been issued by a judge sitting in his bankruptcy jurisdiction which disposes of the bankruptcy estate.

adversarily litigate her claims. [6] Judge Quinn's action caused Holli's Mandamus Petition to the Utah Supreme Court to be rendered moot. See LOS ANGELES v. LYONS, 461 U.S. 95 (1983) (A Judge's or party's actions can cause intervening moot-ness to the claims before the court. When the actions moot the process, the process cannot be deemed as frivolous.). Judge Quinn's actions also invoked the protection of the bankruptcy code given Holli's new status as an assignee defendant and counterclaim plaintiff. [7]

17. Holli filed a timely rule 59 motion to attack the state judgment for due process violations and additionally sought to amend her counter-complaint to allege new allegations. Holli also filed a motion to dismiss the Utah Supreme Court Writ proceeding based on intervening mootness and because Holli was in chapter 13 bankruptcy. (See exhibit "11" attached for the motion to dismiss the Supreme Court Writ proceeding filed by Holli.). Shortly after Holli made the foregoing rule 59 filings, Holli removed both the state court action and the Utah Supreme Court writ action (which had not yet been officially dismissed) to the bankruptcy court under the bankruptcy removal statute. This

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6. See Cowen and Co. v. Atlas Stock Transfer Co., 695 P.2d 109, 114 (Utah 1984) (Judgments may be assigned); Same in Taylor v. American Fire And Cas. Co., 925 P.2d 1279 (Utah App.1996); Eiu Guam v. Long Term Credit Bank of Japan, 322 F.3d 635 (9th Cir. 2003) (where judgment has been assigned, assignor lacks standing to prosecute any post judgment proceedings.); And International Transaction v. Emotelladora Agral., 347 F.3d 589 (5th Cir. 2003) (Where judgment has been assigned, assignor lacks standing to prosecute any post judgment matters going to the competency
of the judgment.).

7. See In re Seven Seas Petroleum, Inc., 522 F.3d 575 (5th. Cir., 2008) (The filing of a bankruptcy petition creates an estate that is comprised of, among other things, "all legal or equitable interests of the debtor in property as of the commencement of the case." 11 U.S.C. § 541(a)(1). The phrase "all legal or equitable interests of the debtor in property" has been construed broadly, and includes "rights of action" addressed in lawsuits. See 1 David G. Epstein et al., Bankruptcy § 3-14, at 162 (1992) ("Section 362(a)(3) stays all actions, whether judicial or private, that seek to obtain possession of property of the estate, or property from the estate, or to exercise control over property of the estate. The trustee or debtor in possession takes control of all property of the estate. **No entity, including a federal or state court, may exercise control over the causes of action in an estate which represent direct injury to the debtor**, unless and until the trustee or debtor in possession files an affirmative petition seeking specified action, or unless the court grants an order lifting the automatic stay pursuant to specific limitations set forth in the code.). "The stay applies to attempts to obtain control over causes of action that are property of the estate. 3 Collier on Bankruptcy ¶ 362.03[5], at 362-20, 21 (Lawrence P. King ed., 15th ed. 1997) ; In re Chaparro Martinez, 293 B.R. 387 (Bankr. N.D. Tex. 2003); Foster v. Heitkemp, 670 F.2d 478 (5th Cir. 1982).

removal stripped the state courts of all further subject matter jurisdiction. [8] As shown in exhibit "12" attached, the NAR case was assigned Bankruptcy removal case number 03-02317. The case would later be withdrawn to the district court under it's bankruptcy jurisdiction and assigned case no. USDC-Utah 2:03-CV-1083.

18. Nevertheless, on April 13, 2003, the Utah Supreme Court acting without subject matter jurisdiction, personal jurisdiction, in wholesale violation of due process, ex parte and without notice, entered a void civil contempt judgment against Holli directing her to pay double attorneys fees and costs to the NAR litigants. [9] (See last page of exhibit "2" attached, bracketed section for this order.).

19. Furthermore, as shown on the face of the Utah Supreme Court contempt order, there was no OSC issued nor served upon Holli to advise Holli of any pending contempt proceeding before the Utah Supreme Court ; aside from the fact that the order exceeded the four corners of the writ petition itself. [10]

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8. See **National Steam-Ship v. Tugman, 106 US 118, 1 S Ct 58, 27 L.Ed 87 (1882)** (After removal, the duty of the state court was to proceed no further. Every order thereafter made by that court was coram non judice, void.).

9. The Writ action was directed against Judge Quinn, not NAR. Hence any attorneys fees incurred in the Writ action would have been incurred by Judge Quinn who mooted the Writ action before any substantive response was made. Nevertheless, in Cooter & Gell v. Hartmarx Corp., 496 U.S. 384 (1990): the Supreme Court held that Rule 11 does not authorize a district court to award an attorney's fee incurred in appellate proceedings. (a) The language of Rule 11 limits sanctions to district court procedure only. Furthermore-- the Advisory Committee Note suggests that Rule 11 cannot be used for awarding sanctions for appellate proceedings. Rule 38 must be employed by the appellate courts to award attorneys fees on appeal, and the Appellate court is charged with the duty to make an attorneys fees award.)

10. For example, the contempt judgment addresses the alleged merits of more than 21 petitions filed by Holli over a 9 year period in the Utah Appellate Court system, the majority of which sought appellate orders directing the lower courts to order the Utah Public Safety Director to renew Hollis Utah driver's license - which the Utah Department of Public Safety refused to renew for the sole purpose of retaliating against Holli for suing the department for 5th amendment takings claims. The refusal to renew Holli's driver's license caused Holli to be repeatedly prosecuted for driving without a license in possession in more than 16 criminal prosecutions over this 9 year period. Each criminal prosecution terminated in Holli's favor based on the unlawful refusal to renew Holli's drivers license without just cause. However upon the termination of each criminal case, the traffic judges still refused to direct the public safety director to renew Hollis driver's license so that Holli could avoid future criminal prosecutions. When Holli appealed the favorable dismissals because she stood to be prosecuted in the future on the same criminal charge, the Utah appellate courts summarily dismissed Holli's appeals for lack of jurisdiction as moot irrespective that Holli stood to be prosecuted in the future. See See Crawford -EL v. Britton, 523 US 574, 592, 118 S. Ct. 1584, 140 L.Ed.2d 759 (1998) (Held: "official retaliation occurs when one is prosecuted, threatened with prosecution, or the object of a bad faith investigation and legal harassment, as a result of their First amendment rights.).

20. After all matters had been removed to the bankruptcy court under the bankruptcy removal statute, Holli again sought to attack the competency of the void orders entered in the NAR state court litigation. For example, on July 22, 2004, Holli filed a second motion in her removed bankruptcy case no. 03-CV-1083 as Pacer Doc. no. 28, seeking permission to amend her complaint to allege violations of the automatic stay by the NAR litigants. Refer back to exhibit "12" attached. On July 27, 2004 as Pacer Doc. no. 29, Holli filed a second motion for declaratory judgment to decree the 2/14/03 state court judgment (exhibit "10" attached hereto) and the 4/13/03 Utah Supreme Court judgment (exhibit "2" attached hereto), "void as a matter of law". (Again Refer back to exhibit "12", the court docket showing these filings)

21. The Bankruptcy court docket attached as exhibit "12" hereto shows that the NAR litigants did not respond to Holli's declaratory judgment motions. The docket further shows that the federal judge 25 days later mooted NAR's motion to enter a federal pre-filing injunction against Holli - after reading Holli's motion's to decree the state orders void which purported to support the issuance of a federal pre-filing injunction order. The court reasoned that it was going to dismiss the federal action for jurisdictional reasons - which would allow the parties to pursue their claims in another forum. 11 However of greatest jurisdictional importance is that on September 1, 2004, the federal judge entered an order dismissing the removed state case on jurisdictional grounds and subsequently mooted or denied as moot the remainder motions pending before the court as PACER DOC. 38. Subsequently, the federal Docket shows that the federal court simply closed the case ; thereby permanently stripping the state court of jurisdiction over the original cause.

22. The federal docket shows that the state NAR case was removed to the Utah Bankruptcy court in early 2003 and then withdrawn to the District court the same year. The docket shows that the parties actively litigated matters before the federal court until dismissal of the case on 9-1-2004, and further, that Holli appealed the dismissal order which sent her out of the jurisdiction, without avail. A reference back to

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11. This court purports to do the same thing the federal judge in Utah sought to do in Hollis bankruptcy case, i.e. send Plaintiff Marti out of this forum to pursue her claims in another forum - by granting the Defendants motion to dismiss for improper venue ; a ruling that plaintiff will directly attack on appeal.

the void attorneys fees judgment entered against Holli (exhibit "1" attached), shows an entry date of March 17, 2004 in the same state case which had been removed to the federal bankruptcy court in 2003. Accordingly, the attack record provided by Marti herein, shows on it's face that the March 17, 2004 state court NAR attorneys fees judgment entered against Holli is void on it's face for lack of subject matter jurisdiction, as the state case wherein the judgment was entered had been removed to the bankruptcy court in 2003 and never remanded back to the state court at any time. There are also other defects apparent from this judgment to include: (1) Failure to acquire personal jurisdiction over Holli given the OSC was served by mail on a massage parlor which was not affiliated with Holli in any way (*** note that the federal docket record lists Holli's address as cache county jail in Logan, Utah - given the NAR litigants were prosecuting Holli for the unlawful practice of law as mentioned in the Utah Supreme Court contempt judgment at page 4, headnote 4, paragraph 7 (bracketed) in exhibit "2" attached. As have other prosecutions, this prosecution also failed. (2) The attorneys fees judgment was a blatant violation of the automatic stay attaching to Holli's estate assets because Holli's estate was not closed until 2 years later on January 4, 2006 as shown in exhibit "13" attached. (3) The state trial court had no authority to enter an attorney's fees judgment which was admittedly acquired during an appellate proceeding, and (4) Holli was not provided with a constitutionally impartial tribunal.

23. Likewise, the Utah Supreme Court civil contempt judgment also suffered from multiple jurisdictional defects. By the time the civil contempt order had issued, Judge Quinn had mooted the basis for the Mandamus writ petition which was filed to compel judge Quinn to act on Holli's numerous notices to submit for decision. On February 13, 2003, the trial judge entered an order subject to Holli's notices to submit. See exhibit "10" attached. Therefore, the Utah Supreme Court's civil contempt judgment entered several months later constituted an unconstitutional advisory opinion in a case where there was no live case or controversy at the time it was entered. [10]

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10. In addition, Judge Christine Durham, who authored the void opinion, owed stock interests in the attorney lawfirm representing the NAR litigants through merging stock interests of her former lawfirm and law partner Paul Moxley. Because Judge Durham had an interest in covering up the misconduct of this lawfirm, this judge should not have been alllowed to sit on the writ case.

24. Also, the Utah Supreme Court civil contempt judgment (exhibit 2 attached hereto) mentions nowhere on it's face that the Utah Supreme Court issued an OSC to Holli thus giving Holli notice of contempt sanctions to be imposed against Holli. This failed notice rendered the Utah Supreme Court Judgment void for lack of the notice required under URAP rule 38. [11]

25. In addition, the Utah Supreme Court lacked jurisdiction to conduct any civil contempt proceedings against the bankrupted debtor Holli because the legal and equitable claims subject matter of the collection action and Hollis counter-complaint were property of Holli's bankruptcy estate, and the contempt judgment on it's face sought to collect monies from Holli by way of attorneys fees. (Refer back to footnotes 5 and 7 supra.).

26. Finally, because the collection action and all related proceedings had been removed to the bankruptcy court and never remanded back to the state court, the Utah Supreme Court lacked jurisdiction to enter any rule on the removed matter.

27. In late 2005, NAR knowing full well that their 2004 attorneys fees judgment was patently void, liened this judgment against Holli and Marti's Idaho residence. Attached hereto as exhibit "14" is the county recorder's certified record showing this lien. A federal action was brought to attack the validity of this lien and the underlying attorneys fees judgment and Utah Supreme Court civil contempt Judgment as USDC-Idaho case no. 05-CV-127. The resulting Judgment entered in this Idaho action is attacked under separate cover.

Plaintiff Marti Lundahl now appears before this court as a prejudiced party - given the defendant seeks to impose contempt sanctions against Marti as based on void contempt orders entered against Holli. Marti seeks declaratory judgments decreeing both the Utah Supreme Court civil contempt judgment and the NAR attorneys fees judgment void ab initio for lack of subject matter and personal jurisdiction, for usurpation of federal

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11. See Cooter & Gell v. Hartmarx Corp., 496 U.S. 384 (1990) (Rule 11 does not authorize a district court to award an attorney's fee incurred in appellate proceedings. (a) The language of Rule 11 limits sanctions to district court procedure only. Furthermore--the Advisory Committee Note suggests that Rule 11 cannot be used for awarding sanctions for appellate proceedings. Rule 38 must be employed by the appellate courts to award attorneys fees on appeal.).

bankruptcy power non existent in the state court, and for due process violations in the rendition of these related judgments.

ARGUMENT

I. Nar's Attorneys Fees Judgment Dated March 17, 2004 Is Void Ab Initio : (1) For Lack Of Subject Matter Jurisdiction In The State Court When The Judgment Was Entered; (2) For Lack Of Personal Jurisdiction Because The NAR Litigants Never Properly Served Holli With The State Court Process; (3) For Due Process Violations In Entering The Attorneys Fees Judgment ; And (4) For Usurpation Of Federal Power

(1) The Utah State Court Lacked Subject Matter Jurisdiction To Enter The Attorneys Fees Judgment Against Holli Because The State Case Had Been Removed To The Bankruptcy Court Under The Bankruptcy Removal Statute; Thus Stripping The State Court Of All Jurisdiction

The US Supreme Court has long held in Granny Goose Food Inc. v. Teamsters, 415 US 423, 435-438 (1974) that after removal to a federal court, a state court loses jurisdiction over the subject matter; furthermore after removal, a judgment entered by a state court may be set aside, modified or otherwise corrected by a federal court on equitable grounds. After removal, the federal court sitting in it's bankruptcy jurisdiction has exclusive jurisdiction over the removed claims. See Gen. Inv. Co. v. Lake Shore Ry., 260 US 261, 267 (1922) (after removal, the power to alter, correct, modify or otherwise dispose of the case passes to the federal court.); In re Birting Fisheries, Inc., 300 B.R. 489 (9th Cir. B.A.P. 2003) (Bankruptcy court had exclusive jurisdiction to collaterally attack state court order and review for conflict with either confirmed chapter 11 plan or Bankruptcy Code.); In re General Carriers Corp., 258 B.R. 181 (9th Cir. B.A.P. 2001) (Only federal court sitting in its bankruptcy jurisdiction has jurisdiction to decide matters concerning the removed case after state court action had been removed to bankruptcy court.) [12]

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12. When a case is removed, it is the mandatory duty of the state court to proceed no further because subject matter jurisdiction has been stripped. If the state does so,

In a case similar to the instant case, Allstate removed a case to the federal court under the diversity statute in re Preston v. Allstate Insurance Co., 627 So. 2d 1322 (Fla. 3d DCA 1993). After removal of the case, the federal court dismissed the removed action without prejudice for lack of jurisdiction and did not remand the case back to the state court. [13] The Prestons returned to the state action and amended the original state complaint. The state court dismissed the amended complaint asserting lack of subject matter jurisdiction over the case based on the removal. The dismissal judgment was appealed to the state Supreme Court. The Florida Supreme Court held: "The state court is allowed to resume jurisdiction of the removed case if, and only if, the federal court grants permission by entering an order of remand. The statute is explicit on this point. There was no order of remand in this case. Consequently the trial court could not resume jurisdiction of the removed action. Once the federal court dismissed the case without prejudice, the plaintiffs were free (among other things) to file another lawsuit in state or federal court. Absent an order of remand, however, plaintiffs could not return to state court to resume litigating the original (removed) case. See also 14A C. Wright, A Miller & E.. Cooper, Federal Practice & Procedure 551-53 (2d ed. 1985) (Until a remand order is certified and the certified remand order and File returned to the state court and docketed, the state court lacks jurisdiction over the removed matter.); **It was necessary for plaintiffs to file a new lawsuit. Id. At 1324.** The high court further held that it was error for the trial court to dismiss an action over which it had no jurisdiction. "Once a matter is removed to the federal court, a state trial court and its judge have no jurisdiction over the matter and cannot dismiss it." *Weiser v. Bierbrouwerij, B.V.,* 430 So.2d at 987 (citations omitted). Accordingly, the Supreme Court struck the order granting the motion to dismiss and instead directed that **the action was abated pursuant to 28 U.S.C. §**

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any resulting process is void. See **National Steam-Ship Cp. Tugman, 106 US 118, 1 S Ct 58, 27 L.Ed 87 (1882)** (After removal, the duty of the state court was to proceed no further. Every order thereafter made by that court was coram non judice, void.) ; Johnson v. Estelle, 625 F.2d 75, 77 (5th Cir. 1980); Same in **Job v. Calder (In re Calder), 907 F.2d 953 (10th Cir. 1990)** (Removing a case to federal court causes the state court to lose jurisdiction; until a certified copy of a remand order is filed with the state court.). See 28 U.S.C. 1446(d); In re Sw. Bell Tel. Co., 235 S.W.3d 619, 624 (Tex. 2007) (holding that orders issued by a trial court without remand jurisdiction are void.).

13. The record shows that the federal court sitting in it's bankruptcy jurisdiction did the same thing in Hollis removed action against NAR. It dismissed the case for lack of jurisdiction and did not remand the action back to the state court.

1446(d).

In this instant case, NAR obtained their attorneys fees judgment in the removed state action, more than a year after removal to the federal court. Six months after the void attorneys fees judgment was entered, the federal court entered a final judgment dismissing the case and did not remand the case back to the state court. The federal docket record shows that neither the federal court nor Holli were aware of the March 17, 2004 attorneys fees judgment. (See federal docket as exhibit "12" attached hereto which does not mention this judgment.). Therefore, the state court not only lacked subject matter jurisdiction at the time the attorneys fees judgment was entered ex parte against plaintiff because the state action had been removed, but the state court also lacked contempt jurisdiction to enter an attorneys fees judgment against Holli because these petitioned for this relief in the original (removed) state case. Accordingly, this court had a mandatory duty to vacate the March 17, 2004 attorneys fees judgment as statutorily **abated pursuant to 28 U.S.C. § 1446(d).**

(2) NAR's Attorneys Fees Judgment Is Void For Failure To Acquire Personal Jurisdiction Over Respondent In The State Case Through Proper Service Of An OSC

The power to sanction is limited by the due process clause of the United States Constitution. See U.S. CONST. amend. XIV (due course of law). Jurisdiction is the mandatory component needed to effect imposition of a sanction order. See Standard v. Olesen, 74 S. Ct.768 (1954) ("No sanction can be imposed under the Constitution absent proof of subject matter and personal jurisdiction".); Same In Marks v. Vehlow, 105 Idaho 560, 567, 671 P.2d 473, 480 (1983). As decisioned by the US Supreme Court in Roadway Express, Inc. v. Piper, 447 U.S. 752, 767 (1980) (procedural due process mandates notice, service and opportunity to respond to an order to show cause before the imposition of a sanctions order.).

In Gildea v. Guardian Title Company of Utah, 2001 UT 75 (UT 2001), the Utah Supreme Court reaffirmed the procedure to be employed when contempt proceedings are being considered against a party. "When the court considers sanctions on it's own initiative, due process requires the court to issue an order directing the party to

show cause why that party has not violated (a rule), and allow the party a reasonable time in which to file a response. Failure to give notice via an order to show cause, results in a void judgment.). See also Poljanec v. Freed Finance Company of Wyoming, 440 P.2d 251 (Wyo. 1968) citing Spriggs v. Pioneer Carissa Gold Mines, Inc., Wyo., 378 P.2d 238, 240, cert. den. 375 U.S. 855, 84 S.Ct. 117, 11 L.Ed.2d 82, reh. den. 375 U.S. 936, 84 S.Ct. 334, 11 L.Ed.2d 268, in order to punish for a constructive contempt, the offending party must have notice of the nature of the charge against him and be given an opportunity to answer and defend himself. That, we said is generally done by a rule to show cause or such other process as would meet the requirements of due process. Failure to give this notice results in a void judgment.

The record in this case shows that the NAR litigants purported to serve Holli with contempt process by mail instead of personally as required under URCP rule 4 [14], at a tatoo and massage parlor located in Orem, Utah, knowing full well that Holli did not reside at this address, and that Holli was in cache county jail as reflected on the federal docket - due to charges by the NAR litigants that Holli was practicing law without a license. (As aforesaid, these charges were dropped as frivolous.).

Accordingly, the NAR attorneys fees judgment is void for lack of personal jurisdiction over Holli.

(3) NAR's Judgment Was Void Because Lundahl Was Not Provided An Impartial Tribunal

It is well established that structural error occurs in a judicial proceeding

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14. Utah courts have acknowledged the importance of actual notice in contempt proceedings which requires personal service. Powers v. Taylor, 14 Utah 2d 118, 378 P.2d 519, 520 (1963); see generally Von Hake v. Thomas, 759 P.2d 1162, 1171-72 (Utah 1988). Similarly other state courts also require personal service upon the contemnor to obtain personal jurisdiction to enter a contempt judgment. See Ex Parte Acevedo, Case No. 13-05-725- (Tex .App. 11/9/2006). Here, Acevedo Court held that the contempt order entered against Acevedo was void because Acevedo was not personally served with the order to show cause citation and therefore not afforded adequate due process. The deputy in this case testified that the show cause notice was served on one of Acevedo's staff members and not personally served upon Acevedo. It is settled that constructive notice is inadequate when dealing with contempt matters. Notice of the citation for contempt must be personally served on the alleged contemnor. Applied in Religious Technology Ctr v. Leibrech, case no. 00-cv-503 (5th Cir. 2004) (we vacate the entire judgment of the district court including its sanction award --- for lack of personal jurisdiction over the alleged contemnor.).

where the parties are provided a biased tribunal. See Tumey v. Ohio, 273 U.S. 510 (1927) (structural error to be subjected to a biased tribunal) cited by US v. Marcus, Case No. 08—1341 (Supreme Court . Ct. May 24,2010.), the high court affirmed that a constitutionally biased tribunal exists where the judge shows a personal bias against a party to the case.) In Offutt v. United States, 267 US 517, 539 (1925) , the high Court set aside a contempt conviction imposed on a lawyer after a trial marked by personal recriminations and animosity between the trial judge and the lawyer.

Furthermore, when a judge pre - determines a cause and denies a litigant of his right to present his case, the judge is said to be pervasively biased against that litigant. See Davis v. Board of School Comm'rs Of Mobile County, 517 F.2d 1044, 1045 (5th Cir. 1975) ("Efforts to dispose of matters for reasons other than on the merits deserve to be characterized as "pervasive bias" or "prejudice" and meet the exception to the "extrajudicial source doctrine" sufficient to have the court disqualified and the judgment overturned.). See also United States v. Sciuto, 521 F.2d 82, 85 (7th Cir. 1976) ("Disqualification required when the record shows an effort to dispose of the case for reasons other than on the merits, or shows persistent due process violations committed by the court. Under these circumstances pervasive bias will be shown.).

Here, the record shows that Judge Quinn never allowed Holli as the Defendant/ Respondent in the state case to present her case on the merits before he entered the February 13, 2003 judgment dismissing Holli's counterclaims with prejudice and unlawfully granted a collection judgment against Holli which debt had been mooted by the negotiating of a check that paid in full the amount petitioned in the small claims pleading, (Refer back to exhibits "3" and "4" attached for collection complaint and payment satifying this debt. Judge Quinn's actions evidenced clear pervasive bias against Holli and the inability to enter an impartial judgment thus showing that the judgment was also the product of fundamental error in failing to provide Holli with an impartial tribunal.

II. The Utah Supreme Court Civil Contempt Judgment Entitled Holli Lundahl v. Judge Anthony Quinn Is Void Ab Initio : (1) As In Violation Of The Automatic Stay Of The Bankruptcy Code Because Res Had Become Subject Of Holli's Bankruptcy Estate; (2) For Lack Of Subject Matter Jurisdiction Under The Bankruptcy Removal Statute; (3) For Lack Of Subject Matter

Jurisdiction Because The Controversy Before The Court Had Been Mooted Several Months Before The Court Sat On The Controversy, (4) For Lack Of Notice And Of Any Opportunity To Be Heard On Any Contempt Matter, And (5) For Other Due Process Violations In Rendition Of The Judgment

In Cooter & Gell v. Hartmarx Corp. 496 US 384 (1976), the High Court held that "Any order that exceeds the jurisdiction of the court is void, and can be attacked in ANY proceeding and in ANY court where the validity of the judgment come into issue." See Rose v. Himely, (1808) 4 Cranch 241, 2 Led 608; Pennoyer v. Neff, (1877) 95 US 714, 24 L Ed 565; Thompson v. Whitman (1873) 18 Wall 457, 21 I Ed 897; Windsor v. McVeigh, (1876) 93 US 274, 23 L Ed 914; McDonald v. Mabee, (1917) 243 US 90, 61 L Ed 608. "Courts are constituted by authority and they cannot go beyond that power delegated to them. If they act beyond that authority, and certainly in contravention of it, their judgments and orders are regarded as nullities and void. They are not voidable, but simply void, and this even prior to reversal." Old Wayne Mut. I. Assoc. v. McDonough, 204 U.S. 8, 27 S.Ct. 236 (1907); Williamson v Berry, 8 How. 495, 540, 12 L.Ed. 1170, 1189 (1850); Rose v Himely, 4 Cranch 241, 269, 2 L.Ed. 608, 617 (1808). Burns v. Baldwin, 138 Idaho 480, 486, 65 P.3d 502, 508 (2003).

Moreover, a Court has a duty to declare a judgment void for defects of personal jurisdiction or subject-matter jurisdiction, Catledge v. Transp. Tire Co., 107 Idaho 602, 607, 691 P.2d 1217, 1222 (1984); or because the rendering court's action amounted to a plain usurpation of power constituting a violation of due process. Dept. of Health and Welfare v. Housel, 140 Idaho 96, 100, 90 P.3d 321, 325 (2004) (citation omitted).

It is with these rules of law that Marti attacks the Utah Supreme Court civil contempt judgment entered against Holli on April 13, 2003 - as void ab initio and complete nullities.

(1) The Utah Supreme Court Entered A Civil Contempt Judgment Against Holli On A Case Which Had Been Removed To The Bankruptcy Court While A Rule 59 Motion Attacking The February 13, 2003 Judgment Was Pending Before The State Trial Court

The Utah courts have long held that a litigant has the right to equitably attack a

final judgment if due process defects exist in that judgment in Pioneer, 100 F.2d 770 (10th Cir. 1938). Here, while the case was pending at the trial level in the Utah state court, Holli timely filed a Rule 59 motion attacking the February 13, 2003 judgment as wholly invested with due process violations. The record further shows that after Holli filed her rule 59 motion attacking the final judgment, Holli removed the state court action to the bankruptcy court. When removal is initiated at the trial level while that court has jurisdiction over the res, all ancillary proceedings including appellate proceedings are equally removed and enjoined. See Matter of Meyerland Co., 960 F.2d 512, 517 (5th Cir. 1992) (The power of Congress to authorize removal of cases on appeal has been repeatedly affirmed in Martin v. Hunter's Lessee, 14 US (1 Wheat) 304, 349. 4 L Ed 97 (1816)); Tennessee v. Davis, 100 US 257, 269 (1880); citing Martin v. Hunter's Lessee, 14 US (1 Wheat) 304, 349, 4 L.Ed. 97 (1816) and Hadley 981 F. Supp. 690, 691 (D.C. 1997). Removal carries with it the whole res and matters related to that res. Martin v. Hunter's Lessee, 14 US (1 Wheat) 304, 349. 4 L Ed 97 (1816)

In addition, under the bankruptcy removal statute, either a plaintiff or defendant can remove an action which alleges matter "related to" a bankruptcy estate. There is no question in this case that NAR was seeking to enforce a fraudulently obtained judgment against the bankrupt Holli Lundahl's chapter 13 estate, and therefore "related to" jurisdiction existed to justify the removal. After removal, the federal court sitting in it's bankruptcy jurisdiction has exclusive jurisdiction over the removed claims. See Gen. Inv. Co. v. Lake Shore Ry., 260 US 261, 267 (1922) ; In re Birting Fisheries, Inc., 300 B.R. 489 (9th Cir. B.A.P. 2003) (Bankruptcy court had exclusive jurisdiction to collaterally attack state court order and review for conflict with either confirmed chapter 11 plan or Bankruptcy Code.); In re General Carriers Corp., 258 B.R. 181 (9th Cir. B.A.P. 2001) (Only federal court sitting in its bankruptcy jurisdiction has jurisdiction to decide matters concerning the removed case after state court action had been removed to bankruptcy court.) [13] See also 14A C. Wright, A Miller & E.. Cooper, Federal Practice & Procedure

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13. When a case is removed, it is the mandatory duty of the state court to proceed no further because subject matter jurisdiction has been stripped. If the state court does so, any resulting process is void. See **National Steam-Ship Cp. Tugman, 106 US 118, 1 S Ct 58, 27 L.Ed 87 (1882)** (After removal, the duty of the state court was to proceed no further. Every order thereafter made by that court was coram non judice,

551-53 (2d ed. 1985) (Until a remand order is certified and the certified remand order and file returned to the state court and docketed, the state court lacks jurisdiction over the removed matter.); Allman v. Hanley, 302 F.2d 559, 562 (5th Cir. 1962) (state loses jurisdiction once removal is effected); Lowe v. Jacobs, 243 F.2d 432, 433 (5th Cir. 1957) .

Here, all proceedings involving the NAR matter / res had been removed to the bankruptcy court and then subsequently withdrawn to the federal District Court of judge Dee Benson siting in his bankruptcy jurisdiction. The Bankruptcy docket shows that when Judge Dee Benson dismissed the NAR action for lack of jurisdiction and sent Holli out of the forum, Holli unsuccessfully appealed that decision before the 10th circuit court. Nevertheless no remand order was ever issued returning jurisdiction over the original cause to the state courts.

Accordingly, all judgments entered concerning the NAR res after removal were prima facially void, including the Utah Supreme Court civil contempt judgment.

(2) The Utah Supreme Court Civil Contempt Judgment Was Entered On Mooted Matter And Therefore Constituted An Advisory Opinion Prohibited Under Federal And State Law

In Shipman v. Evans, 2004 UT 44 (Utah Supreme Ct 2004), the Utah Supreme Court re-affirmed that Utah Courts are not authorized to deliver advisory opinions or pronounce judgments on abstract questions; where the justiciable controversy has been decided before judgment is entered by the appellate court. The appellate court's only remedy is to dismiss the appeal as moot following US Supreme Court law under Steffell v. Thompson, 415 US 452, 459 n. 10 (1974) (Appellate courts are without power to decide questions once the controversy has been mooted. Only authority is the dismiss the appeal.) **Graham v. Peace Officer St. & Tr. Com'n, 737 P.2d 1060 (Wyo. 1987)** ("We have often repeated the universal rule that a reviewing court will dismiss a case when, pending appeal, an event occurs which renders a cause moot and

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void.) ; Johnson v. Estelle, 625 F.2d 75, 77 (5th Cir. 1980); Same in **Job v. Calder (In re Calder), 907 F.2d 953 (10th Cir. 1990);** Guilbot v. Vallejo, No. 14-07-00047-CV (Harris Co., TX, 2008) (Removing a case to federal court causes the state court to lose jurisdiction; until a certified copy of a remand order is filed with the state court.). See 28 U.S.C. ' 1446(d); In re Sw. Bell Tel. Co., 235 S.W.3d 619, 624 (Tex. 2007)); Mapco, Inc. v. Forrest, 795 S.W.2d 700, 703 (Tex. 1990) (orig. proceeding) (holding that orders issued by a trial court without remand jurisdiction are void.).

makes a determination of the issues unnecessary. Northern Utilities, Inc. v. Public Service Commission of Wyoming, Wyo., 620 P.2d 139, 140 (1980); State ex rel. Schwartz v. Jones, 61 Wyo. 350, 157 P.2d 993, 995 (1945)).

In the NAR case, when the trial court entered a conclusive judgment on February 14, 2003 which incorporated Holli as a party (refer back to exhibit "10" attached), the court admittedly reached Holli's notices to submit for decision re her intervention motion and thus mooted the grounds for Holli's writ petition to the Utah Supreme Court. Accordingly, when the Utah Supreme Court entered their "advisory opinion" on April 13, 2003, almost two months after the issues underlying the writ petition had been mooted, the Utah Supreme Court entered an advisory ruling prohibited under both federal and state law. Under Steffell v. Thompson, supra, the ruling was void ab initio for lack of subject matter jurisdiction.

(3) The Utah Supreme Court Civil Contempt Judgment Violated The Automatic Stay Of The Bankruptcy Code Because Holli Was The Respondent To The Purported Contempt Proceedings In the Utah Supreme Court

The 10th Circuit had long held that where the debtor is the respondent in the proceeding before the court, the automatic stay bars any further prosecution of that proceeding. Consolidated Electric Corp., 894 F. 2d 371, 373 (10th Cir. 1990) (Stay applies in any official proceeding where the debtor is a . . . respondent. Any continuation of that proceeding is taken in violation of the automatic stay and consequently is void and without effect."). Same in Celotex Corporation v. Bennie Edwards, et al, Case No. 93-1504 (U.S. Supreme Ct, 1995) .

The record herein shows that Holli was clearly the respondent in the Utah Supreme Court civil contempt proceeding as shown by the order directing the trial court to award attorneys fees and double costs against Holli for alleging bringing a frivolous writ petition. Accordingly, as a respondent in that proceeding, the automatic stay of the bankruptcy code applied since Holli was in a defensive position in that proceeding.

Several Courts have thoroughly analyzed the competency of a civil contempt order entered against a respondent who is a debtor in bankruptcy. The 5th circuit has held that "Where a rule violation constitutes a form of civil contempt against a debtor and an

order is made during the pendency of a bankruptcy case, the contempt order is void as in violation of the automatic stay." Young v. Repine, No. 06-20807. July 22, 2008 (5th Cir. 2008), "The stay applies to all attempts to obtain control over causes of action that are property of a bankruptcy estate." 3 Collier on Bankruptcy ¶ 362.03[5], at 362-20, 21 (Lawrence P. King ed., 15th ed. 1997) . The legal conclusions applied were: "Civil contempt proceedings are conducted to exact usually a monetary penalty against the alleged contemnor. The monetary penalties reduce the value of estate assets in the bankruptcy estate and are construed as an attempt to obtain control over causes of action that are property of the bankruptcy's estate. **As such, any non-bankruptcy court contempt proceeding which seeks to create a debt against the debtor or to diminish the value of estate assets, is strictly prohibited by the automatic stay of the bankruptcy code."** In re Chaparro Martinez, 293 B.R. 387 (Bankr. N.D. Tex. 2003); Foster v. Heitkemp, 670 F.2d 478 (5th Cir. 1982) (The automatic stay provision remains in effect as concerns all acts attempting to gain control over property of an estate. Any action endeavoring to obtain control over property of an estate is void.); Thus, "[a]ny action in which the judgment may diminish" an asset of the bankruptcy estate "is unquestionably subject to a stay under this subsection." Concurring with decisions made in A.H. Robins, 788 F.2d at 1001 (citing In re Johns Manville Corp., 33 B.R. 254, 261 (Bankr. S.D.N.Y. 1983)) ; In re Gruntz, 202 F.3d 1074, 1082 (9th Cir. 2002) ; And In re Atkins, 176 BR 998, 1006 (Bankr. D. Minn. 1994) . [14]

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14. The propriety of entering a civil contempt judgment against a chapter 13 debtor was also thoroughly anlayzed in a Texas case In re Small, Civ. No. 14-08-01075-CV (Tex. App. - Houston (14th Dist.) 2009) . Here, a Texas state court ordered the debtor to pay his wife's attorneys fees in a divorce proceeding while the debtor was in bankruptcy. The attorney took the attorneys fees judgment and applied it against the debtor's real property. The debtor was in jail but had filed a chapter 13 case before the judgment for attorneys fees was entered. The Texas appellate court held the civil contempt order entered by the state judge was void as in violation of the bankruptcy stay because it ordered the debtor, post petition, to pay a debt of attorneys fees and then sought to collect against the debtor's estate which was subject to the automatic stay. **The automatic bankruptcy stay abates any judicial proceeding against the debtor, depriving state courts of jurisdiction over the debtor and his property until the stay is lifted or nullified by final administration of the bankruptcy case.** Baytown St. Bank v. Nimmons, 904 S.W.2d 902, 905 (Tex. App.- Houston [1st Dist.] 1995, writ denied); An action taken in violation of the automatic bankruptcy stay is void, not merely voidable. Howell v. Thompson, 839 S.W. 2d 92, 92 (Tex. 1992) (order); Continental Casing Corp. v. Sameadan Oil Corp., 751 S.W. 2d 499, 501 (Tex. 1988) (per curiam). The debtor here, Small, brought a contempt action against the attorney inside his bankruptcy case and was awarded upwards of $60,000 in punitive damages against the attorney for a deliberate violation of the automatic stay.

Holli's case bore a remarkable similarity to the Small case cited in footnote 14 supra. The Utah Supreme Court, ex parte, imposed rule 38 sanctions against Holli and in favor of NAR during an appellate proceeding and then ordered the trial court to determine the amount of the monetary sanction for attorneys fees and double costs. NAR's attorney reportedly asked for these fees in violation of the automatic stay of the bankruptcy code as noted in the Utah Supreme court civil contempt order. The Utah Supreme Court civil contempt Order was void because it ordered the debtor Holli, post petition, to pay a debt of attorneys fees and then sought to collect that debt against Holli's estate assets which existed until January 4, 2006, when Holli's estate was fully administered and thereafter closed. See exhibit "13" attached.

Morever, while Holli and Marti's Idaho property was still subject to the automatic stay of Hollis' bankruptcy estate, NAR liened that property as the attorney did in Small, supra. See exhibit "14" attached. The attorney was sanctioned $60,000 for obtaining a civil contempt order against a debtor who was in bankruptcy and thereafter seeking to collect on that judgment by liening the debtor's real property which was part of Small's chapter 13 estate.

Based on the foregoing, the Utah Supreme Court civil contempt judgment which is tied to the NAR March 17, 2004 attorneys fees judgment, are void orders as in violation of the automatic stay of the bankruptcy code.

(4) The Utah Supreme Court Civil Contempt Judgment Was Void Because No OSC Notice Was Either Identified In The Contempt Judgment Nor Served Upon Holli Notifying Holli Of The Pendency Of Any Contempt Proceeding

The power to sanction is limited by the due process clause of the United States Constitution. See U.S. CONST. Amend. XIV. Jurisdiction is the mandatory component needed to effect imposition of a sanction order. See Standard v. Olesen, 74 S. Ct. 768 (1954) ("No sanction can be imposed under the Constitution absent proof of subject matter and personal jurisdiction." Sanction orders are in personam judgments.). Same In Marks v. Vehlow, 105 Idaho 560, 567, 671 P.2d 473, 480 (1983).

Based on the foregoing, the Utah Supreme Court lacked the power to sanction Holli not only because they lacked subject matter jurisdiction over the proceedings at

the time their civil contempt sanction was issued against Holli, but also because they failed to properly acquire personal jurisdiction over Holli's person by service of an OSC upon Holli.

The face of the Utah civil contempt order does not reflect anywhere in this order that the Utah Supreme Court issued an OSC to Holli re cause to enter sanctions. As decisioned by the US Supreme Court in Roadway Express, Inc. v. Piper, 447 U.S. 752, 767 (1980) : procedural due process mandates notice, service and opportunity to respond to an order to show cause before the imposition of a sanctions order under Appellate rule 38. The Notes of Advisory Committee on Rules—1994 Amendment Federal Rules of Appellate Procedure Rule 38 provide : The amendment requires that before a court of appeals may impose sanctions, the party to be sanctioned must have notice, service and an opportunity to respond. The failure to issue Holli an OSC sounds a death knell to the Utah Supreme Court civil contempt judgment. See In Gildea v. Guardian Title Company of Utah, 2001 UT 75 (UT 2001), reaffirming the procedure to be employed when contempt proceedings are being considered against a party. " When the court considers sanctions on it's own initiative, due process requires the court to issue an order directing the party to show cause why that party has not violated (a rule), and allow the party a reasonable time in which to file a response. **Failure to give notice via an order to show cause, results in a void judgment.** " Because there is a complete absence of any reference to an OSC in the Utah Supreme Court contempt order, and in line with this defect, the admitted failure to give Holli notice of the proceedings, the Utah Supreme Court civil contempt judgment is void ab initio.

(5) Structural Error Bars Enforcement of the Utah Supreme Court Civil Contempt Judgment

When rules provide the procedure upon which process is to be exercised, structural error occurs when that procedure is not followed at the level provided. In Cooter & Gell v. Hartmarx Corp., 496 U.S. 384 (1990), the high court concluded that Rule 11 does not authorize a district court to award an attorney's fee incurred in appellate proceedings. (a) The language of Rule 11 limits sanctions to district court procedure only. Furthermore-- the Advisory Committee Note suggests that Rule 11 cannot be used for awarding sanctions for appellate proceedings. Rule 38 must be employed by the

appellate courts to allow the award attorneys fees that are incurred in the appellate courts.). The record shows that Justice Christine Durham directed the trial court to determine the contempt "attorneys fees" incurred by NAR in the writ proceeding which NAR was not a party. The trial court had no authority to issue such sanctions under rule 11 or rule 38. Such order by Justice Durham constituted structural error which rendered the civil contempt judgment void.

Accordingly, because no notice, service, or opportunity to respond was given Holli, the Utah Supreme Court civil contempt judgment is void. Furthermore, structural error resulted in an invalid contempt judgment.

III. Where Petitioner Has Established That A Judgment Is Void – The Court Is Mandated To Make Such A Decree and Order That The Judgment Be Vacated

"A judgment is void if the court that rendered it lacked jurisdiction of the subject matter, or of the parties, or if the rendering court acted in a manner inconsistent with due process of law.' " Williams v. New Orleans Public Serv., Inc., 728 F.2d 730, 735 (5th Cir.1984); Milliken v. Meyer, 311 U.S. 457, 61 S.Ct. 339, 85 L.Ed. 2D 278 (1940) (A void judgment also includes one procured by fraud.).

Furthermore, a void judgment is one which has no legal force or effect whatever, it is an absolute nullity, **its invalidity may be asserted by any person whose rights are affected thereby, at any time and at any place, and it need not be attacked directly but may be attacked collaterally whenever and wherever it is interposed,** City of Lufkin v. McVicker, 510 S.W. 2d 141 (Tex. Civ. App. - Beaumont 1973); 11 CHARLES ALAN WRIGHT, ARTHUR R. MILLER AND MARY KAY KANE, FEDERAL PRACTICE AND PROCEDURE § 2862 (2d ed. 1995). "[T]here is no time limit for an attack on a judgment as void." Briley v. Hidalgo, 981 F.2d 246, 249 (5th Cir.1993) (quoting 11 CHARLES ALAN WRIGHT, ARTHUR R. MILLER AND MARY KAY KANE, FEDERAL PRACTICE AND PROCEDURE § 2862 (1973)).

Utah has long held that where due process violations appear from the face of the record, the court has the duty to declare the judgment null and void and set the judgment aside. See Stockyards National Bank of So. Omaha v. Bragg, et at, 67 Utah 60, 246 P. 966 (1925) [So too must a judgment or other order fall for errors of law **apparent on the**

face of the mandatory record, such as showing the judgment obtained to be in variance with the practice of the court or contrary to well - recognized principles and fundamentals of the law. **Where the face of the record shows that fundamental law was disregarded in the establishment of the judgment; the proceedings and the judgment will be rendered null and void for all purposes.as will all proceedings based upon and giving the void judgment enforcement effect.** citing Ex Parte Fisk, 113 US 713, 718 (1885)).

CONCLUSION

For all of the foregoing reasons, the NAR judgment dated March 17, 2004 and entered in Utah State Case no. 020201658 before the Third Judicial District Court and the Utah Supreme Court Civil Contempt Judgment entered ex parte on April 3, 2003 as case no. 20030063 - should hereby be declared void ab initio, vacated and set aside.

Plaintiff Marti Lundahl further contends that it is irrelevant she is not named in the void Utah state court judgments. This Court and the Defense counsel are corruptly seeking to impose the civil contempt judgments against Plaintiff, thereby making plaintiff a person entitled to attack the validity of the void contempt judgments. 11 CHARLES ALAN WRIGHT, ARTHUR R. MILLER AND MARY KAY KANE, FEDERAL PRACTICE AND PROCEDURE § 2862 (2d ed. 1995).

Dated: March 10, 2013

Marti Lundahl

Certificate of Service

The undersigned certifies that she will electronically served opposing counsel with the foregoing document and attached 14 exhibits on March 13, 2013 to the following email address:

Richard Vasquez
Law Offices of Snow, Christainsen and Martineau
10 Exchange Place Eleventh Floor
Salt Lake City, Utah 84111
email address : rv@scmlaw.com

Marti Lundahl

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FILED DISTRICT COURT
Third Judicial District
MAR 17 [illegible]
SALT LAKE COUNTY
By

RONALD F. PRICE - 5535
PETERS SCOFIELD PRICE
A Professional Corporation
340 Broadway Centre
111 East Broadway
Salt Lake City, Utah 84111
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Attorneys for Plaintiff/Counterclaim Defendants

IN THE THIRD JUDICIAL DISTRICT COURT
SALT LAKE COUNTY, STATE OF UTAH

N.A.R., INC.,

Plaintiff,

vs.

KELLI LUNDAHL, ET AL.,

Defendants.

HOLLI LUNDAHL,

Counterclaim/Plaintiff,

vs.

MARK T. OLSON; OLSON ASSOCIATES, P.C.; ANTHONY C. TIDWELL, D.D.S., OLYMPUS VIEW DENTAL AND N.A.R.,

Counterclaim/Defendants.

ORDER AWARDING ATTORNEYS' FEES AND DOUBLE COSTS AGAINST HOLLI LUNDAHL, AND JUDGEMENT AGAINST HOLLI LUNDAHL FOR ATTORNEYS' FEES AND DOUBLE COSTS

Civil No. 020201658

Judge Anthony Quinn

Plaintiff and counterclaim defendants' (the "Moving Parties") *Motion For Award Of Attorneys' Fees And Double Costs Against Holli Lundahl, And For Other Relief* (the "Motion")

came before the Court for hearing at 8:30 am on Thursday, 19 February 2004. Ronald F. Price of the law firm PETERS SCOFIELD PRICE *A Professional Corporation* appeared on behalf of the Moving Parties. Additionally, counterclaim defendant Mark T. Olson was present. No other persons or parties were present. Thus, Holli Lundahl did not appear. Additionally, defendants Kelli Lundahl and John Behle did not appear and were not represented by counsel.

The Court, having reviewed the Motion, the supporting memorandum and the affidavit of Ronald F. Price filed in support of the Motion, having determined that Holli Lundahl was properly served with the Motion, the supporting memorandum and the Price affidavit, having determined that Holli Lundahl was properly served with notice of the hearing on the Motion, being duly advised in the premises and upon good cause showing, hereby enters the following order and judgment with respect to the Motion:

1. Pursuant to the ruling of the Utah Supreme Court in the case of *Lundahl v. Quinn*, 67 P.3d 1000 (Utah 2003) that the Moving Parties are entitled to recover from Holli Lundahl the amount of attorneys' fees and double costs incurred by the Moving Parties in connection with responding to, and as a result of, the *Petition for Extra Ordinary Writ Directed to Judge Anthony Quinn of the Third Judicial District Court Pursuant to Rule 65B* (the "Petition") filed by Holli Lundahl in connection with this matter, and pursuant to the Utah Supreme Court's instructions in the *Lundahl* opinion that this Court determine the amount of those attorneys' fees and double costs to award and to enter such an award against Holli Lundahl and in favor of the Moving Parties, the Court hereby **ORDERS** that Holli Lundahl shall pay to the Moving Parties the sum of $4707.50 for attorneys' fees which the Moving Parties incurred in connection with responding

to the Petition, and the additional sum of $598.70 for double costs which the Moving Parties incurred in connection with responding to the Petition. This order shall constitute a judgment against Holli Lundahl.

DONE this 17 day of March, 2004.

BY THE COURT

ANTHONY B. QUINN
DISTRICT COURT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on the 23rd day of February 2004, and on this 5th day of March, 2004, a true and correct copy of the foregoing ORDER AWARDING ATTORNEYS' FEES AND DOUBLE COSTS AGAINST HOLLI LUNDAHL, AND JUDGEMENT AGAINST HOLLI LUNDAHL FOR ATTORNEYS' FEES AND DOUBLE COSTS was served in the manner indicated to the following:

Gregory M. Constantino
Constantino Law Office, P.C.
68 South Main Street, Suite #800
Salt Lake City, Utah 84101
Facsimile No. (801) 530-1333

X U.S. Mail
___ Federal Express
___ Hand Delivery
___ Facsimile

Holli Lundahl
200 East Center Street
Orem, Utah 84057

X U.S. Mail
___ Federal Express
___ Hand Delivery

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67 P.3d 1000, 470 Utah Adv. Rep. 28, 2003 UT 11
(Cite as: 67 P.3d 1000)

Supreme Court of Utah.
Holli LUNDAHL, Petitioner,
v.
The Honorable Anthony QUINN, Respondent.
N.A.R. INC., Mark T. Olson, Olson & Associates, P.C., Anthony Tidwell, D.D.S., and Olympus View Dental Center, Respondents and Real Parties in Interest.

No. 20030062.
April 1, 2003.
Rehearing Denied April 1, 2003.

Pro se litigant sought to intervene in underlying collections action. The District Court, Salt Lake County, Anthony B. Quinn, J., refused to address litigant's legal filings. Litigant petitioned for extraordinary writ. The Supreme Court held that: (1) when an individual avails herself of the judicial machinery as a matter of routine, special leniency on the basis of pro se status is manifestly inappropriate; (2) litigant would no longer be afforded reasonable indulgence; (3) litigant's petition was frivolous on its face; and (4) real parties in interest were entitled to attorney fees and double costs for defending action.

So ordered.

West Headnotes

[1] Attorney and Client 45 ⇐62

45 Attorney and Client
45II Retainer and Authority
45k62 k. Rights of Litigants to Act in Person or by Attorney. Most Cited Cases

Supreme Court is generally lenient with pro se litigants.

[2] Attorney and Client 45 ⇐62

45 Attorney and Client
45II Retainer and Authority
45k62 k. Rights of Litigants to Act in Person or by Attorney. Most Cited Cases

When an individual avails herself of the judicial machinery as a matter of routine, special leniency on the basis of pro se status is manifestly inappropriate, particularly when the filings in question are routinely frivolous and have been brought with the apparent purpose, or at least effect, of harassment, not only of opposing parties, but of the judicial machinery itself.

[3] Attorney and Client 45 ⇐62

45 Attorney and Client
45II Retainer and Authority
45k62 k. Rights of Litigants to Act in Person or by Attorney. Most Cited Cases

Pro se litigant who had history of filing numerous pro se actions would no longer be afforded reasonable indulgence, and thus, litigant would be charged with full knowledge and understanding of all relevant statutes, rules, and case law, where litigant had chosen to make legal self-representation a full-time hobby, if not a career.

[4] Attorney and Client 45 ⇐62

45 Attorney and Client
45II Retainer and Authority
45k62 k. Rights of Litigants to Act in Person or by Attorney. Most Cited Cases

Supreme Court deemed any argument by pro se litigant that attempted to distort legal authority for purpose of evading or circumventing proscription against unlicensed practice of law as not brought in good faith, for purposes of litigant's petition seeking extraordinary writ allowing her to intervene in underlying collections action, where litigant had been expressly informed in the past that she could not represent the legal interests of other persons and litigant cited statute prohibiting practicing law without a license in petition. U.C.A.1953, 78-9-101(3).

102 Costs
102I Nature, Grounds, and Extent of Right in General
102k1 Nature and Grounds of Right
102k2 k. In General. Most Cited Cases

Pro se litigant's petition for extraordinary writ, requesting an order directing trial court to allow her to intervene as a matter of right in underlying collections action, failed to comply with requisite standard for asserting such a petition, and thus, petition was frivolous on its face; rule governing substitution of parties provided proper mechanism, if any, for litigant to obtain relief she requested, and litigant did not document basis in law for bringing such a petition nor did she even purport to argue in favor of a good faith extension or modification. Rules Civ.Proc., Rules 25(c), 65B(a).

[6] Parties 287 ⇐58

287 Parties
287IV New Parties and Change of Parties
287k57 Substitution
287k58 k. In General. Most Cited Cases

Courts cannot be compelled to recognize a substitution of parties at the whim of the movant. Rules Civ.Proc., Rule 25(c).

[7] Appeal and Error 30 ⇐428(2)

30 Appeal and Error
30VII Transfer of Cause
30VII(D) Writ of Error, Citation, or Notice
30k428 Filing Notice and Proof of Service
30k428(2) k. Time for Filing. Most Cited Cases

Where a timely motion for attorney fees is interposed, the time for filing a notice of appeal does not begin to run until a final order fixing the amount of those fees is entered.

[8] Parties 287 ⇐61

287 Parties
287IV New Parties and Change of Parties
287k57 Substitution
287k61 k. Application and Proceedings Thereon. Most Cited Cases

Provision in rule governing substitution of parties that the action "may be continued by or against the original party," unless the court grants a motion for substitution, preserves the court's inherent power to manage the case without undue disruption, confusion, or interference. Rules Civ.Proc., Rule 25(c).

[9] Parties 287 ⇐6(1)

287 Parties
287I Plaintiffs
287I(A) Persons Who May or Must Sue
287k6 Real Party in Interest
287k6(1) k. In General. Most Cited Cases

Pretrial Procedure 307A ⇐556.1

307A Pretrial Procedure
307AIII Dismissal
307AIII(B) Involuntary Dismissal
307AIII(B)2 Grounds in General
307Ak556 Parties, Defects as to
307Ak556.1 k. In General. Most Cited Cases

Rule requiring actions to be brought in the name of a real party in interest and prohibiting dismissal of action on ground that it was not prosecuted in name of real party in interest until court had appropriately examined the issue was inapplicable to pro se litigant's request to intervene in underlying collections action as a matter of right for purposes of pursuing counterclaim, where there was no question that counterclaims were initially brought in name of a real party in interest and basis for dismissal of lawsuit had nothing to do with litigant's belated assertion that she should be allowed to intervene. Rules Civ.Proc., Rule 17(a).

[10] Costs 102 ⇐66

102 Costs
102I Nature, Grounds, and Extent of Right in General
102k65 Increased Costs, and Double or Treble Costs
102k66 k. In General. Most Cited Cases

67 P.3d 1000, 470 Utah Adv. Rep. 28, 2003 UT 11
(Cite as: 67 P.3d 1000)

Costs 102 ⚖194.44

102 Costs
102VIII Attorney Fees
102k194.44 k. Bad Faith or Meritless Litigation. Most Cited Cases

Pro se litigant's frivolous petition for extraordinary relief, requesting an order directing trial court to allow her to intervene as a matter of right in underlying collections action, entitled real parties in interest to attorney fees and double costs for defending such petition. Rules App.Proc., Rule 33(c)(1); Rules Civ.Proc., Rule 65B(a).

[1] Costs 102 ⚖128

102 Costs
102VI Security for Costs; Proceedings in Forma Pauperis
102k127 Action or Defense in Forma Pauperis
102k128 k. Nature and Grounds of Right. Most Cited Cases

Ordinarily, where litigants cannot afford to pay a filing fee, that fee is waived so that poverty will not create a de facto barrier to access to the courts.

*1001 Holli Lundahl, petitioner pro se.

Brent M. Johnson, Salt Lake City, for Judge Quinn.

Ronald F. Price, Salt Lake City, for N.A.R., Mark Olson, Olson & Associates, Anthony Tidwell, Olympus View Dental Center.

PER CURIAM:

¶ 1 This matter comes before the court on petition for extraordinary writ. The petitioner, Holli Lundahl, asserts she has filed a motion to intervene and an amended counterclaim complaint on which the district court refused to rule because it deemed her a nonparty to the action. Judge Anthony Quinn filed a response, as did N.A.R. Inc., Mark T. Olson, Olson & Associates, P.C., Anthony Tidwell, D.D.S., and Olympus View Dental Center as real parties in interest. We deny the petition and further hold that it is frivolous.

¶ 2 As background to this court's order on this petition, a brief recitation of the history of petitioner's many appearances before this court is appropriate. Since 1999, Holli Lundahl [FN1] has submitted no fewer than twenty-seven filings, consisting of nineteen appeals, four petitions for extraordinary writ (including the instant petition), two petitions for writ of certiorari, and two petitions for interlocutory appeal. Of these, five appeals are presently pending before either this court or the court of appeals, [FN2] two decisions on appeal were summarily affirmed, one decision on appeal has been affirmed per curiam, four appeals were dismissed for lack of jurisdiction (including Holli's attempt to appeal a criminal case where the lower court had dismissed the charges against her), two appeals were dismissed as premature, one appeal was dismissed for an improper rule 54(b) certification, and one appeal was voluntarily dismissed. Three petitions for extraordinary writ, two petitions for writ of certiorari, and two petitions for interlocutory appeal have been denied.

FN1. Because this matter was originally brought as a counterclaim by Holli Lundahl's sister, Kelli Lundahl, we generally will refer to them by their first names to avoid confusion.

FN2. Four of the nineteen appeals noted above were consolidated into a single action, leaving sixteen separate appeals for disposition.

¶ 3 In *Nelson v. Jacobsen*, 669 P.2d 1207, 1213 (Utah 1983), this court held that "as a general rule, a party who represents himself will be held to the same standard of knowledge and practice as any qualified member of the bar." Nevertheless, *Nelson* also noted that " 'because of his lack of technical knowledge of law and procedure [a layman acting as his own attorney] should be accorded every*1002 consideration that may reasonably be indulged.' " *Id.* (bracketed language in original) (quoting *Heathman v. Hatch*, 13 Utah 2d 266, 268, 372 P.2d 990, 991 (1962)).

[1][2] ¶ 4 Accordingly, this court generally is lenient with pro se litigants. Individuals have a right to represent themselves without being compelled to seek professional assistance. Where they are largely strangers to the legal system, courts are understandably loath to sanction them for a procedural misstep

here or there. Holli, however, is hardly a stranger to the legal system. Where most ordinary individuals find themselves in court on only a handful of occasions in their lives, Holli has managed to embroil herself in more litigation in just a few short years than one would think humanly possible. When an individual avails herself of the judicial machinery as a matter of routine, special leniency on the basis of pro se status is manifestly inappropriate.

[3] ¶ 5 This is particularly true where the filings in question are routinely frivolous and have been brought with the apparent purpose, or at least effect, of harassment, not only of opposing parties, but of the judicial machinery itself. When Holli is unsuccessful in obtaining the relief she seeks, she has not infrequently resorted to collateral attack on the judges who have adjudicated her cases. Indeed, a significant number of the direct appeals Holli has filed have been brought from district court denials of petitions for extraordinary relief naming judges as defendants. Therefore, notwithstanding the dictum in *Nelson* cautioning courts to be lenient with pro se litigants, we now make clear that the reasonable indulgence that has been afforded to Holli in the past is at an end. Where Holli has chosen to make legal self-representation a full-time hobby, if not a career, it is not too much to expect her to strictly abide by the rules governing the appearances of parties before this court. Therefore, she shall be charged with full knowledge and understanding of all relevant statutes, rules, and case law.

¶ 6 We also note Holli has occasionally employed the right to self-representation in a questionable manner. In this petition, as well as in at least three other recent appellate filings, Holli has purportedly acquired another person's cause of action by assignment and then has professed to represent that cause of action in her own right.[FN3] The Utah State Bar Rules of Integration and Management do not "prohibit a person who is unlicensed as an attorney at law ... from personally representing that person's own interests in a cause to which the person is a party." Utah State Bar R. Integration and Management R. III(T). However, this exception to the prohibition on the unauthorized practice of law is limited to actions where "the person is a party in his or her own right and *not as an assignee*" [FN4] *Id.* (emphasis added). In this petition, Holli concedes the original cause of action belonged solely to Kelli Lundahl. On pages five and six of her petition, Holli asserts Kelli's counsel abandoned her on the morning of a hearing to determine a motion for summary judgment. Holli then states that "Kelli was unable to obtain other counsel willing to sue an attorney. Accordingly, Kelli *assigned* her property damage claims to Holli Lundahl." (Emphasis added.) In other words, the expressed purpose of the assignment was to allow Holli to prosecute the action because Kelli could not obtain a licensed attorney.

FN3. *Lundahl v. Alta View Hospital*, No. 20020749; *Lundahl v. Qwest Communications*, No. 20020748; *Lundahl v. IHC*, No. 20010336. The response to the instant petition also contains some very troubling allegations that Holli has appeared at hearings and misrepresented herself as Kelli acting pro se. Respondents have attached an affidavit stating a person other than Kelli has appeared at hearings and represented herself as Kelli. We note that this affidavit does not explicitly identify Holli Lundahl as the person appearing; we also note some of the allegations are not supported by affidavit and are hearsay. We therefore make clear that they do not affect our decision today.

FN4. Subsection 78-9-101(3) of the Utah Code contains substantially the same provision. Initially scheduled to be repealed on May 1, 2003, the repeal date has been extended to May 3, 2004. *See* H.B. 349 S1, 2003 Gen. Sess. (Utah) (enacted).

[4] ¶ 7 We offer no ruling at this time regarding whether Holli has violated the proscription*1003 on the unauthorized practice of law. Nonetheless, it remains pertinent to our purposes here that she actually cited section 78-9-101 of the Utah Code in her petition and that she has been expressly informed in the past that she cannot represent the legal interests of other persons.[FN5] Consequently, we deem any argument that attempts to distort legal authority for the purpose of evading or circumventing the proscription against unlicensed practice as not brought in good faith.

FN5. *E.g.*, *Lundahl v. Alta View Hospital*, No. 20020749 (letter from court dated October 23, 2002).

¶ 8 Rule 33(b) of the Rules of Appellate Procedure provides: "[A] frivolous appeal, motion, brief, or

67 P.3d 1000, 470 Utah Adv. Rep. 28, 2003 UT 11
(Cite as: 67 P.3d 1000)

other paper is one that is not grounded in fact, not warranted by existing law, or not based on a good faith argument to extend, modify, or reverse existing law." With this standard in mind, we turn to the present petition. The underlying collections action was commenced against Kelli as a defendant. The plaintiffs eventually agreed to dismiss the action with prejudice, apparently due to settlement of the claim. However, the case continued forward because Kelli elected to pursue a counterclaim against the plaintiff and other parties. On November 25, 2002, the district court granted the counterclaim defendants' motion for summary judgment and directed counsel to prepare the order. According to Holli's petition, Kelli assigned her claims on December 4, 2002. Holli asserts she then moved to intervene [FN6] on December 6, followed by numerous motions and objections. The counterclaim defendants moved for attorney fees, and the district court scheduled a hearing on that matter. Apparently, an order relating to the November 25 ruling was filed on December 27, and the hearing on attorney fees was conducted on January 16, 2003. The transcript of the January 16, 2003, hearing before the district court indicates Kelli appeared and was represented by licensed legal counsel. It is not clear whether Holli was present at the hearing. The district court indicated it would award a fixed amount of attorney fees and directed the counterclaim defendants' counsel to prepare an order. The district court stated it would not address Holli's pleadings because she was not a party to the case. It also specifically stated it would not allow Holli to appear as a party unless she filed a motion for substitution pursuant to rule 25(c) of the Utah Rules of Civil Procedure. Holli then brought the instant petition, requesting an order directing the district court to allow her to intervene as a matter of right.

FN6. The respondents to the petition dispute whether this motion was actually filed. They assert Holli obtained a date-stamped copy without leaving a copy for the district court. While these allegations are also troubling, resolution of the conflicting allegations is not material to our decision here. For the limited purpose of reviewing this petition, we will assume the motion to intervene was in fact filed.

[5] ¶ 9 Based on the documentation provided by the petition, [FN7] it is not warranted by existing law. A petition for extraordinary writ may be brought only where "no other plain, speedy and adequate remedy is available." Utah R. Civ. P. 65B(a). While Holli acknowledges this standard, her petition manifestly fails to comply with it.

FN7. The bulk of the allegations of fact in Holli's petition are argumentative, conclusory, or irrelevant. Because this court does not have access to the record, it must necessarily rely on those facts, and documents properly derived from that record and submitted as part of the petition to guide its determination of frivolousness.

[6][7][8] ¶ 10 Where a chose in action is purportedly conveyed after a legal action concerning it already has been filed by the original party in interest, the assignee may be required to obtain a substitution of parties according to the dictates of rule 25(c) of the Rules of Civil Procedure; specifically: "the action may be continued by or against the original party, unless the court upon motion directs the person to whom the interest is transferred to be substituted in the action." Utah R. Civ. P. 25(c). While rule 25(c) speaks in permissive rather than mandatory terms, it is clear courts cannot be compelled to recognize a substitution of parties at the whim of the movant. *See, e.g., Calder Bros. Co. v. Anderson*, 652 P.2d 922, 927 n. 6 (Utah 1982) (upholding denial of motion for substitution of real party in interest, where motion was filed subsequent to default judgment). *1004 The provision that the action "may be continued by or against the original party," unless the court grants a motion for substitution, preserves the court's inherent power to manage the case without undue disruption, confusion, or interference.[FN8] *See Briggs v. Hess*, 122 Utah 559, 561, 252 P.2d 538, 539 (1953).

FN8. One of Holli's asserted justifications for seeking an extraordinary writ is her claim that the time for filing a notice of appeal began to run on December 27, 2002. The real parties in interest, on the other hand, assert that order was not a final judgment. Regardless, where a timely motion for attorney fees is interposed, the time for filing a notice of appeal does not begin to run until a final order fixing the amount of those fees is entered. *See Promax Dev. Corp. v. Raile*, 2000 UT 4, ¶ 15, 998 P.2d 254 ("[A] trial court must determine the amount of attorney fees

awardable to a party before the judgment becomes final for purposes of appeal."); *see also Sittner v. Schriever*, 2000 UT 45, ¶ 19, 2 P.3d 442. In this case, the final order on the motion for attorney fees had not been filed at the time Holli submitted this petition, and, in any event, Holli's own failure to timely move for substitution does not create an emergency necessitating this court's intervention.

[9] ¶ 11 Holli instead improperly moved to intervene as a matter of right under rule 24(a).[FN9] Rule 24(a) grants a right to intervene, upon "timely application," where the applicant "claims an interest relating to the property or transaction which is the subject of the action." Holli, however, cannot claim an independent interest relating to either property or a transaction because the "transaction" at issue is the alleged conveyance of the chose in action itself. If courts were to countenance such subterfuges, it would confer an unconditional right to intervene on the entire universe of individuals or entities legally capable of accepting the assignment of a cause of action.

FN9. Holli additionally relies on rule 17(a) of the Rules of Civil Procedure. Rule 17(a) requires actions to be brought in the name of a real party in interest. It also prohibits dismissal of the action "on the ground that it is not prosecuted in the name of the real party in interest," until the court has appropriately examined the issue. This rule plainly is inapposite. There is no question the counterclaims initially were brought in the name of a real party in interest. Also, the basis for dismissal of the lawsuit had nothing to do with Holli's belated assertion that she should be allowed to intervene; indeed, the district court granted summary judgment before Holli received her purported assignment.

¶ 12 Consequently, the district court's justifiable refusal to address a multitude of last-ditch, disruptive legal filings was well within its discretion and supported by Holli's failure to avail herself of the procedural rule designed to afford her the relief she claimed. Holli has documented no basis in law for bringing a petition for extraordinary writ. Nor does she even purport to argue in favor of a good faith extension or modification. Instead, the legal analysis she presents in support of her petition is confined to a conclusory assertion that she has a statutory right to intervene, accompanied by several manifestly inapposite citations. Where rule 25(c) provided the proper mechanism, if any, for Holli to obtain the relief she requests,[FN10] her petition for extraordinary relief is frivolous on its face.

FN10. Since rule 38 of the Utah Rules of Appellate Procedure allows the appellate court to independently determine proper substitution of parties, Holli would not have been deprived of her right to seek substitution even if she had brought a proper motion for substitution and the district court had failed to rule on it prior to entry of final judgment. Assuming, without deciding, that a motion for substitution brought just prior to entry of final judgment would not toll the time for filing a notice of appeal, the right to appeal would remain vested in Kelli, and Holli could employ rule 38 to pursue her claim of substitution before the appellate court.

[10] ¶ 13 We therefore turn to the appropriate consequence for filing a frivolous pleading. Rule 33(a) of the Utah Rules of Appellate Procedure provides that "if the court determines that a motion made or appeal taken under these rules is either frivolous or for delay, it shall award just damages."[FN11] Pursuant to this provision, the real-party-in-interest respondents have requested costs and attorney fees. See Utah R. App. P. 33(c)(1). We hold N.A.R. Inc., Mark Olson, Olson & Associates, P.C., Anthony Tidwell, D.D.S., and Olympus View Dental Center are entitled to attorney fees and double costs for the time and resources expended in *1005 defending against this frivolous petition. We direct the district court to determine the amount of those sanctions and to take whatever other actions it deems appropriate within its jurisdictional authority.

FN11. For purposes of this rule, "a motion made or appeal taken" necessarily includes all filings that are submitted to this court. Otherwise, parties would be excused from the consequences of filing a frivolous petition for discretionary review.

3

Mark T. Olson
OLSON ASSOCIATES, P.C.
10 West Broadway, #750
Salt Lake City, UT 84101
(801) 363-9966

February 14, 2002

KELLI LUNDAHL

2748 N 930 EAST
PROVO, UT 84604

Reference Number: 68515-60676
Original Creditor: Olympus View Dental-Anthony Tidwell DDS

RE: N.A.R. v. KELLI LUNDAHL,

KELLI LUNDAHL

You have just been served with a lawsuit. You will find attached copies of the Summons and Complaint. We have been instructed by our client to proceed to judgment and then utilize whatever means available to collect the money owed.

It is not too late to stop this lawsuit; you may do so by paying the full amount due. As of today, the amount due is listed below:

Assigned Amount:	$382.59
Interest:	$15.62
Estimated Service Fees:	$12.00
Estimated Complaint Filing Fee:	$37.00
Return Check Fee:	$0.00
Attorney's Fees:	$150.00

ESTIMATED PAYOFF
AS OF 02/14/2002: $597.21

THE BALANCE DUE WILL CHANGE DAILY AS INTEREST, COURT COSTS AND ATTORNEY FEES (IF APPLICABLE TO YOUR ACCOUNT) ARE INCURRED.

IF YOU PAY PRIOR TO OUR FILING THE COMPLAINT, YOU MAY BE ABLE TO AVOID PAYING THE FILING FEE. PLEASE CALL FOR THE CORRECT BALANCE BEFORE SENDING PAYMENT.

OLSON ASSOCIATES, P.C.
Attorneys for N.A.R., Inc.

THIS IS A COMMUNICATION FROM A DEBT COLLECTOR.

Mark T. Olson (5529)
OLSON ASSOCIATES, P.C.
Attorneys for Plaintiff
10 West Broadway, Suite 750
Salt Lake City, UT 84101
Telephone: (801)363-9966
Reference No. 68515-60676

IN THE THIRD DISTRICT COURT, MURRAY DEPARTMENT
SALT LAKE COUNTY, STATE OF UTAH

N.A.R., INC. Plaintiff, v. KELLI LUNDAHL Defendants.	C O M P L A I N T Case No. JUDGE

Plaintiff, N.A.R., INC., complains of Defendants and alleges as follows:

1. That Plaintiff is a Utah Corporation, with its principal place of business in Salt Lake County, Utah.

2. That Defendants are residents of, or the subject agreement was executed in, SALT LAKE COUNTY.

3. That the amount in controversy, exclusive of costs, does not exceed $2000.00.

4. That under the terms of a signed credit agreement dated 11/27/2000, (See copy of agreement attached hereto) the Defendants are indebted to: Olympus View Dental-Anthony Tidwell DDS in the amount of $382.59 for dental services together with

interest thereon in the amount of $15.62 at the current rate of 21.00% since 12/05/2001, the approximate date of the default.

5. That the agreement provides for a reasonable attorney's fee.

6. That prior to this action the above account was assigned to Plaintiff herein, who is now entitled to bring suit thereon.

7. That the subject obligation is a family expense, Defendants were acting as a family unit at the time the obligation was incurred, and Defendants are jointly and severally liable upon this debt pursuant to Utah Code Ann. Section 30-2-9.

8. If authorized by contract, the principal balance may include a collection agency fee.

9. That Plaintiff has demanded payment of the sum due and Defendants refused, or failed, to pay.

WHEREFORE, Plaintiff prays for judgment against Defendants in the sum of $382.59, together with court costs, and interest thereon, at 21.00% from 12/05/2001, post judgment interest at 21.00% from the date of judgment, and a reasonable attorney's fee pursuant to Rule 4-505.01 in the amount of $150.00, or as established by affidavit pursuant to Rule 4-505, Utah Code of Judicial Administration.

DATED this 14 day of FEBRUARY, 2002.

OLSON ASSOCIATES, P.C.

*****Original Signed*****

By: _____
Mark T. Olson
Attorneys for Plaintiff

Plaintiff's Address:
10 West Broadway, Suite 610
Salt Lake City, Utah 84101

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M.D. DIET, L.L.C.
535 E. 4500 S. SUITE D-120
SALT LAKE CITY, UTAH 84107
(801) 293-3100

FIRST SECURITY
FORT UNION OFFICE
MIDVALE, UT 84047
(801) 246-6500
31-1/1240

4763

3/19/2002

PAY TO THE ORDER OF Olsen & Ass. (Anthoney Tidwell) $ **597.21

Five Hundred Ninety-Seven and 21/100********** DOLLARS

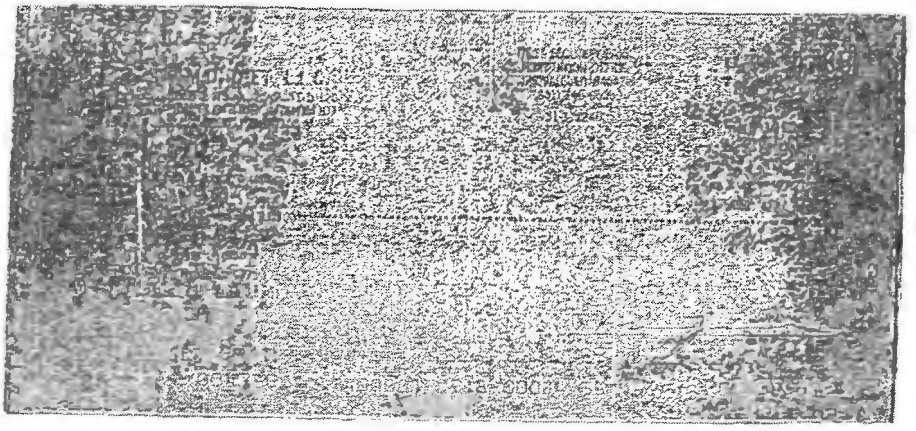
Olsen & Ass. (Anthoney Tidwell)
10 West Broadwey #750
Salt Lake City, Utah 84101

AUTHORIZED SIGNATURE

MEMO Paid Under duress & credit threatened bill challanged

Security features. Details on back.

⑈004763⑈ ⑆124000120⑆215 00084 58⑈ (801)5 - 6067 NO



P-CL/EXC003/19-MAR-02/3[illegible]0297/2241334568/597.21/USD/4763/3
/1/0000000021800008456/SV 20021226EG11350/

nclosed is the photocopied item you requested. For further assistance,
lease call 1-800-869-3557. (1-800-TO-WELLS) You have not been charged a
ee for this service.

Thank you for banking with Wells Fargo - your Anytime Anywhere Bank.

- - - - INTEROFFICE MAIL - - - -
FRO: ul219-011
TO: Dianne Nieuwland AU: 05907

5

FILED

MAR 27 2002

THIRD DISTRICT COURT
MURRAY DEPARTMENT

Mark T. Olson (5529)
OLSON ASSOCIATES, P.C.
Attorneys for Plaintiff
10 West Broadway, Suite 750
Salt Lake City, UT 84101
Telephone: (801)363-9966
Reference No. 68515-60676

IN THE THIRD DISTRICT COURT, MURRAY DEPARTMENT
SALT LAKE COUNTY, STATE OF UTAH

N.A.R., INC. Plaintiff, v. KELLI LUNDAHL et al. Defendant(s).	CERTIFICATE OF DEFAULT Case No. 020201658 JUDGE JOSEPH C. FRATTO

IN THIS ACTION, the Defendant(s):

KELLI LUNDAHL

having been regularly served with process and having failed to appear and answer Plaintiff's complaint on file herein, and the time allowed by law for answering having expired, the default of said Defendant(s) in the premises is hereby duly entered according to law.

Attest my hand, and the seal of said Court, this 27 day of March, 2002.

STATE OF UTAH

District Court Clerk

By _____
Deputy Clerk

Mark T. Olson (5529)
OLSON ASSOCIATES, P.C.
Attorneys for Plaintiff
10 West Broadway, Suite 750
Salt Lake City, UT 84101
Telephone: (801)363-9966
Reference No. 68515-60676

IN THE THIRD DISTRICT COURT, MURRAY DEPARTMENT
SALT LAKE COUNTY, STATE OF UTAH

N.A.R., INC. Plaintiff, v. KELLI LUNDAHL et al. Defendant(s).	DEFAULT JUDGMENT Case No. 020201658 JUDGE JOSEPH C. FRATTO

The Plaintiff having filed its cause of action, the Clerk having entered the default against Defendant(s):

KELLI LUNDAHL

and upon presentation of evidence of the amounts due Plaintiff by reason of breach of contract, it is hereby:

ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. Judgment is entered in favor of Plaintiff and against Defendant, KELLI LUNDAHL, as follows:

PRINCIPAL BALANCE:	$ 382.59
PREJUDGMENT INTEREST FROM 12/05/2001:	$ 23.10
COMPLAINT FILING FEE:	$ 37.00
PROCESS SERVICE FEE:	$ 14.00
OTHER COURT COSTS:	$ 0.00
ATTORNEY FEES:	$ 215.00
RETURN CHECK FEE:	$ 0.00
LESS PAYMENTS RECEIVED:	-$ 0.00
TOTAL AMOUNT OF JUDGMENT:	$ 671.69

2. Interest as to Defendant, KELLI LUNDAHL, on total judgment is 21.00% per annum from the date of judgment until paid.

3. Judgment is entered in favor of Plaintiff and against Defendant, JOHN BEHLE, as follows:

PRINCIPAL BALANCE:	$ 382.59
PREJUDGMENT INTEREST FROM 12/05/2001:	$ 11.01
COMPLAINT FILING FEE:	$ 37.00
PROCESS SERVICE FEE:	$ 14.00
OTHER COURT COSTS:	$ 0.00
ATTORNEY FEES:	$ 0.00
RETURN CHECK FEE:	$ 0.00
LESS PAYMENTS RECEIVED:	-$ 0.00
TOTAL AMOUNT OF JUDGMENT:	$ 444.60

4. Interest as to Defendant, JOHN BEHLE, on total judgment is 4.28% per annum from the date of judgment until paid.

5. The judgments are joint and several.

6. It is further ordered that this judgment shall be augmented in the amount of reasonable costs and attorney's fees against Defendant, KELLI LUNDAHL, expended in collecting said judgment by execution or otherwise as shall be established by affidavit.

DATED this 27th day of [illegible], 2002.

BY THE COURT:

Judge JOSEPH C. FRATTO

DEFENDANT'S INFORMATION:
KELLI LUNDAHL

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experian

Prepared for
KELLI TELFORD LUNDAHL
Report number
3552160137

Report date
November 27,2002
www.experian.com/consumer
Call 801-373-8900

Information affecting your creditworthiness

Items listed with dashes before and after the number, *for example* --1--, may have a potentially negative effect on your future credit extension and are listed first on the report.

Has was removed from the records Posted at the Bruce Swenson 1/30/02 Kathy Evans

Credit grantors may carefully review the items listed below when they check your credit history. Please note that the account information connected with some public records, such as bankruptcy, also may appear with your credit ounts listed later in this report.

records

Source/ Identification number	*Location number*	*Date filed/ Date received*	*Responsibility*	*Claim amount/ Liability amount*	*Status details*
3RD CIR CT MURRAY CIV 5461 S STATE ST # STATE MURRAY UT 84107 020201658		3-2002/ NA	Joint	$1,176 NA	Status: Civil claim judgment. Plaintiff: NAR INC. This item is scheduled to continue on record until 3-2009.

adit items

Source/ account number (except last few digits)	*Date opened/ Reported since*	*Date of status/ Last reported*	*Type/ Terms/ Monthly payment*	*Responsibility*	*Credit limit or original amount/ High balance*	*Recent balance/ Recent payment*	*Status Details*
AMEX P O BOX 7871 FORT LAUDERDALE FL 33329 072673455016302652	11-2000/ 11-2000	11-2002/ 11-2002	Revolving/ NA/ $0	Individual	$9,500 / $15,019	$7,790 as of 11-2002/	Status: Open/Never late.
Original creditor: ABC CHINESE FOOD							
BANK ONE PO BOX 901008 FORT WORTH TX 76101 41980071....	12-1997/ 12-1997	11-2002/ 11-2002	Revolving/ NA/ $100	Individual	$3,231 / $6,782	$1,160 as of 11-2002/	Status: Open/Never late.

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THIRD DISTRICT COURT MURRAY COURT
SALT LAKE COUNTY, STATE OF UTAH

NAR, Plaintiff,	:	MINUTES MOTION TO SET ASIDE JUDGMENT
vs.	:	Case No: 020201658 DC
KELLI LUNDAHL, Defendant.	:	Judge: JOSEPH C. FRATTO Date: May 29, 2002

Clerk: wendyc

PRESENT

Defendant(s): KELLI LUNDAHL
Plaintiff's Attorney(s): MARK T OLSON
Audio
Tape Number: 02-265 Tape Count: 3530-5920

HEARING

TAPE: 02-265 COUNT: 3530-
On record
This matter is before the court on the defendant's motion to set aside the default judgment.
The default judgment is set aside.
To be set for trial.

8

Mark T. Olson (5529)
OLSON ASSOCIATES, P.C.
Attorneys for Plaintiff
10 West Broadway, Suite 750
Salt Lake City, UT 84101
Telephone: (801)363-9966
Reference No. 68515-60676

2002 JUN 17 P12:40

IN THE THIRD DISTRICT COURT, MURRAY DEPARTMENT
SALT LAKE COUNTY, STATE OF UTAH

N.A.R., INC. Plaintiff, v. KELLI LUNDAHL et al. Defendant(s).	MOTION TO DISMISS WITH PREJUDICE Case No. 020201658 JUDGE JOSEPH C FRATTO

Plaintiff hereby moves the Court for an Order dismissing its Complaint in the above-entitled action against Defendant(s):

KELLI LUNDAHL
JOHN BEHLE

with prejudice, pursuant to Rule 41, Utah Rules of Civil Procedure.

This motion is based on the fact that the underlying cause of action upon which this action was based has been settled to the satisfaction of Plaintiff and Defendant(s).

DATED this 13 day of June, 2002.

OLSON ASSOCIATES, P.C.

By: Mark T. Olson
Mark T. Olson
Attorneys for Plaintiff

This is a communication from a debt collector. This is an attempt to collect a debt. Any information obtained will be used for that purpose.

Mark T. Olson (5529)
OLSON ASSOCIATES, P.C.
Attorneys for Plaintiff
10 West Broadway, Suite 750
Salt Lake City, UT 84101
Telephone: (801)363-9966
Reference No. 68515-60676

IN THE THIRD DISTRICT COURT, MURRAY DEPARTMENT
SALT LAKE COUNTY, STATE OF UTAH

N.A.R., INC. Plaintiff, v. KELLI LUNDAHL et al. Defendant(s).	ORDER Case No. 020201658 JUDGE JOSEPH C FRATTO

The Court, having reviewed Plaintiff's Motion to Dismiss with Prejudice, and good cause appearing therein, it is hereby:

ORDERED, ADJUDGED, AND DECREED:

1. That the above-entitled action against Defendant(s):

KELLI LUNDAHL
JOHN BEHLE

is dismissed with prejudice.

DATED this 18 day of June, 2002.

BY THE COURT

Judge JOSEPH C FRATTO

This is a communication from a debt collector and is an attempt to collect a debt. Any information obtained will be used for that purpose.

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THIRD DISTRICT COURT MURRAY COURT
SALT LAKE COUNTY, STATE OF UTAH

NAR, Plaintiff,	:	MINUTES OBJ TO DISMISSAL HEARING
vs.	:	Case No: 020201658 DC
KELLI LUNDAHL Defendant.	:	Judge: BRUCE LUBECK Date: July 8, 2002

Clerk: deannas

PRESENT

Defendant(s): KELLI LUNDAHL
Plaintiff's Attorney(s): MARK T OLSON
Audio
Tape Number: 02-345 Tape Count: 545

HEARING

TAPE: 02-345 COUNT: 545
Mark Olsen appearing for NAR. Deft Kelli Lundahl appearing.
COUNT: 598
Kelli Lundall addresses the court regarding her opposition to the Judge signing the dismissal. Case was not set on the calendar because of the dismissal filed. Deft requesting the Dismissal Order to be set aside as she has filed a counter claim.
COUNT: 1053
Mark Olsen presents his agrument.
COUNT: 1228
Court after hearing the arguments and concerned about missing documents in the file ordered that the Dismissal Order to be set aside. Court to prepare a complete file with all documents intact and set the case for another Pre-trial.

Case No: 020201658
Date: Jul 08, 2002

Dated this 9 day of July, 2002

BRUCE LUBET
District Court Judge

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Judgment #J
020201658 JD12521747 LUNDAHL JD

RONALD F. PRICE - 5535
PARSONS, DAVIES, KINGHORN & PETERS
185 South State Street, Suite 700
Salt Lake City, Utah 84111
Telephone: (801) 363-4300
Facsimile: (801) 363-4378

Attorneys for Plaintiff/Counterclaim Defendants

ENTERED IN REGISTRY
OF JUDGMENTS
DATE 02/19/03

**IN THE THIRD JUDICIAL DISTRICT COURT,
STATE OF UTAH, COUNTY OF SALT LAKE**

N.A.R., INC., Plaintiff, vs. KELLI LUNDAHL, ET AL., Defendants.	JUDGMENT
HOLLI LUNDAHL, Counterclaim/Plaintiff, vs. MARK T. OLSON; OLSON ASSOCIATES, P.C.; ANTHONY C. TIDWELL, D.D.S., OLYMPUS VIEW DENTAL AND N.A.R., Counterclaim/Defendants.	Civil No. 020201658 Judge Anthony Quinn

Counterclaim defendants' application for award of attorneys's fees came before the Court for hearing on 16 January 2003, at 9:00 a.m. Counterclaim defendants Mark Olson and Olson Associates, L.C. were present, and plaintiff and counterclaim defendants were represented by their attorney Ronald F. Price of the law firm of Parsons,

Davies, Kinghorn & Peters. Defendant and counterclaim plaintiff Kelli Lundahl was present, and defendants were represented by their attorney Greg Constantino of the law firm of Constantino Law Office, P.C. The Court, having considered the papers filed by the parties, having heard the arguments of counsel, and having previously found that plaintiff and counterclaim defendants are entitled to an award of attorneys' fees under *Holbrook v. Master Protection Corp. dba Firemaster*, 883 P.2d 295 (Utah Ct. App. 1994) for prevailing against counterclaim plaintiff Kelli Lundahl on her racketeering counterclaim asserted under Utah Code Ann. § 76-10-1601 *et seq.*, and for the reasons stated by the Court at the hearing held on 16 January 2003, awards plaintiff and counterclaim defendants attorneys' fees in the amount of $4,517.22.

Additionally, and for the reasons stated at the 16 January 2003 hearing, the Court, on its own motion, hereby strikes any and all papers filed in this matter by Holli Lundahl.

Now, therefore, being fully advised in the premises, and having previously entered its order re: counterclaim defendants' motion for summary judgment and related motions,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. That plaintiff's complaint, and all claims asserted therein, be, and the same hereby are, dismissed with prejudice.

2. That counterclaim ~~defendant~~ Holli Lundahl's counterclaim, and all claims asserted therein, be, and the same hereby are, dismissed with prejudice.

3. Judgment is entered in favor of plaintiff and counterclaim defendants and against ~~counterclaim~~ defendant Kelli Lundahl in the amount of $4,517.22, with such sum to bear interest at the judgment rate.

4. It is further ordered that this judgment against Kelli Lundahl shall be augmented in the amount of reasonable costs and attorneys' fees against counterclaim plaintiff Kelli Lundahl expended in collecting said judgment by execution or otherwise as shall be established by affidavit.

DONE this 13th day of February 2003.

BY THE COURT OF UTAH

Anthony B. Quinn
Third District Court Judge

Approved as to Form:

CONSTANTINO LAW OFFICE, P.C.

Greg Constantino

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Holli Lundahl
200 E. Center Street
Orem, Utah 84057

UTAH SUPREME COURT

HOLLI LUNDAHL	:	MOTION FOR SUMMARY DISMISSAL OF PETITION
Petitioner	:	FOR EXTRAORDINARY WRIT AS MOOT
v	:	
JUDGE ANTHONY QUINN	:	SUPREME COURT CASE NO. 20030062
Respondent	:	

Ancillary Proceedings to Third Judicial District Court
Case no. 020201658

NAR, INC	:	
Plaintiff	:	
v	:	
HOLLI LUNDAHL as Defendant assignee to contract Claims of Kelli Lundahl	:	Third Judicial District Court case no. 020201658
HOLLI LUNDAHL as assignee To counterclaims [set off claims] Of Kelli Lundahl	:	
Counterclaim Plaintiff,	:	
v	:	
NAR, INC., MARK OLSON,	:	

OLSON & ASSOCIATES P.C.,
OLYMPUS VIEW DENTAL, :
ANTHONY TIDWELL DDS AND
DOES COUNTERCLAIM :
DEFENDANTS
_____:

Petitioner Holli Lundahl hereby moves this court for summary dismissal of the Petition for Extra-ordinary relief filed with this court by Holli Lundahl on January 23, 2003 and which sought to compel Judge Anthony Quinn to enter a ruling, yea or nea, on Lundahl's motion to intervene pursuant to URCP rule 24(a) and pursuant to 2 Notices to submit filed by Holli Lundahl in December 2002 and January 2003 .

This dismissal is required because said petition has been rendered moot by order entered by Judge Quinn on February 13, 2003 in re Third Judicial District Court case no. 020201658 and attached hereto as exhibit "A". The judgment adds Holli Lundahl as a party to the action by a ruling on the merits of Holli Lundahl's counterclaims subject matter of her 2nd First Amended Counterclaim filed with the trial court on December 6, 2002; therefore implying that the court granted Holli Lundahl's motion to intervene and mooting petitioner's request herein to direct Judge Quinn to enter a ruling on LUNDAHL's Notices to Submit for decision LUNDAHL's motion to intervene.

In addition to the foregoing, on January 31, 2003 Holli Lundahl filed chapter 13 bankrutpcy. As the defendant assignee to the OLYMPUS VIEW dental contract and the underlying case herein, this court is permanently enjoined by the automatic stay of thebankruptcy code from further addressing any matters subject of theproceedings before Quinn's court. Accordingly this court should dismiss these writ proceedings for lack of subject matter jurisdiction as a pondispositional ruling that will have no impact upon enforcement of the automatic stay.

Dated: March 28, 2003

Holli Lundahl

Certificate of Service

The undersigned certifies that she served this motion for summary dismissal upon the following parties:

Brent Johnson
Atty for Judge Quinn
450 S. State Street
SLC, Utah 84111

Holli Lundahl

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CLOSED, PROSE

Electronic Case Filing System
District of Utah (Central)
CIVIL DOCKET FOR CASE #: 2:03-cv-01083-DB

Lundahl v. NAR, et al
Assigned to: Judge Dee Benson
Demand: $0
Case in other court: 04-04224
US Bkrcy Dist UT, 03-02317
US Bkrcy Dist UT, 03-21660
USCA 10th Circuit, 04-04224
Cause: 28:0157 Motion for Withdrawal of Reference

Date Filed: 12/11/2003
Date Terminated: 09/01/2004
Jury Demand: Defendant
Nature of Suit: 423 Bankruptcy Withdrawl
Jurisdiction: Federal Question

Petitioner

Holli Lundahl

represented by **Holli Lundahl**
139868
CACHE COUNTY JAIL
E-3
1225 W VALLEY VIEW STE 100
LOGAN, UT 84321
PRO SE

V.

Respondent

NAR

represented by **Ronald F. Price**
5742 W HAROLD GATTY DR
SALT LAKE CITY, UT 84116
(801)530-2964
Fax: (801) 322-2003
Email: ronprice@ppktrial.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Respondent

Tom Olson

represented by **Ronald F. Price**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Respondent

Olson & Associates

represented by **Ronald F. Price**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

"12"

07/22/2004	28	SECOND Motion by Holli Lundahl to amend counterclaim to add additional parties and claims for willful violation of the automatic stay and removal statutes (kvs) (Entered: 07/26/2004)
07/27/2004	29	Memorandum by Holli Lundahl in opposition to [18-1] motion to enjoin Holli Lundahl from commencing any litigation against NAR, Mark T. Olson, Olsen Associates, Anthony Tidwell and Olympus View Dental without first obtaining leave from this court (kvs) (Entered: 07/28/2004)
07/27/2004	29	SECOND Motion by Holli Lundahl for Declaratory Judgment decreeing 2/13/03 state court judgment and 4/1/03 Utah Supreme Court Judgment void as a matter of law , to file a second amended counterclaim in accordance with the present status of the case (kvs) (Entered: 07/28/2004)
07/27/2004	29	Demand for jury trial on any issues of disputed facts by Holli Lundahl (kvs) (Entered: 07/28/2004)
07/27/2004	29	Request for Oral Argument on any legal issues filed by Holli Lundahl on (kvs) (Entered: 07/28/2004)
07/28/2004	30	Certificate of service [29-1] opposition memorandum, [29-2] motion to file a second amended counterclaim in accordance with the present status of the case, [29-1] motion for Declaratory Judgment decreeing 2/13/03 state court judgment and 4/1/03 Utah Supreme Court Judgment void as a matter of law, [29-1] demand jury, [29-1] requested by Holli Lundahl (kvs) (Entered: 07/28/2004)
07/28/2004	31	Affidavit of K. Pontious Re:testing to veracity and authenticity of the summonses served in this case (kvs) (Entered: 07/28/2004)
07/28/2004	32	Affidavit of J. Keddington Re:attesting to veracity and authenticity of the Jim Davis Affidavit (kvs) (Entered: 07/28/2004)
07/28/2004	33	Affidavit of Holli Lundahl Re:attesting to veracity and authenticity of the Jim David Affidavit (kvs) (Entered: 07/28/2004)
07/30/2004	34	Notice of filing by Holli Lundahl re: change of address (kvs) (Entered: 08/02/2004)
08/25/2004	35	Order mooting [18-1] motion to enjoin Holli Lundahl from commencing any litigation against NAR, Mark T. Olson, Olsen Associates, Anthony Tidwell and Olympus View Dental without first obtaining leave from this court (See order for details)signed by Chief Judge Dee Benson , 8/24/04 cc:atty (kvs) (Entered: 08/26/2004)
08/25/2004	36	Order granting [10-1] ex parte motion for leave to file overlength memo signed by Chief Judge Dee Benson , 8/24/04 cc:atty (kvs) (Entered: 08/26/2004)
08/25/2004	37	Order granting [5-1] motion to extend time until 1/5/03 for pla to resp to Safety Inv's mot/remand action to state court signed by Chief Judge Dee Benson , 8/24/04 cc:atty (kvs) (Entered: 08/26/2004)
09/01/2004	38	Order granting [2-1] motion to withdraw the reference, granting [3-2] motion to dismiss, mooting [3-1] motion to remand, denying [7-1] cross motion for sanctions of default judgment and recommendation of disciplinary action against the license of Ronald Price, denying [7-1] cross motion for Declaratory Judgment, denying [28-1] motion to amend counterclaim to add additional parties and claims for willful violation of the automatic stay and removal statutes signed by Chief Judge Dee Benson , 8/31/04 cc:atty (kvs) (Entered: 09/01/2004)
09/01/2004		Case closed per docket no. 38 (kvs) (Entered: 09/01/2004)

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PROSE, DISMISSED, CLOSED

U.S. Bankruptcy Court
District of Utah (Salt Lake City)
Bankruptcy Petition #: 03-21660

Date filed: 01/31/2003
Date terminated: 01/04/2006

Assigned to: William T. Thurman
Chapter 13
Voluntary
Asset

Debtor
Holli Lundahl
200 East Center Street
Orem, UT 84057
UTAH-UT
801-368-5707
SSN / ITIN [redacted]

represented by **Holli Lundahl**
PRO SE

Trustee
Andres' Diaz tr
9 Exchange Place
Suite 313
Salt Lake City, UT 84111
(801) 537-1910

U.S. Trustee
United States Trustee
#9 Exchange Place
Suite 100
Salt Lake City, UT 84111-2147

Filing Date	#	Docket Text
01/04/2006		The Trustee has filed a Final Account of Trustee and has certified that the estate has been fully administered, and no timely objection has been filed. Accordingly, it is ORDERED that the trustee is discharged and THE CASE IS HEREBY CLOSED. Judge William T. Thurman (kmc,) (EOD: 01/04/2006)

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05/03/2006 10:49:00 RC006 CLERKS OFFICE ONEIDA COUNTY

INSTRUMENTS RECORDED

Instrument Number	Date	Time	Transaction Type / Description	#Pages	Fee Amt	Charge	Delivered To	On
138395	12/15/2005	04:20p	195 - LIEN 14 16S 38E T-3779 14 16S 38E T-3779 NAR, INC. (LIENOR)	5	$15.00		HOLLI LUNDAHL 10621 S. OLD HWY 191 MALAD ID 83252	
138962	04/27/2006	03:20p	056 - DEED, WARRANTY, SPECIAL 14 16S 38E T-3779 14 16S 38E T-3779 GRANTOR: SECURITY NATIONAL MORTGAGE COMPANY GRANTEE: KEDDINGTON, JAMES LUNDAHL, HOLLI MARCHANT, MARIE	3	$9.00		NORTHERN TITLE COMPANY MALAD ID 83252	

Instrument Count: 2

**********END OF REPORT**********

State of Idaho, County of Oneida } ss.

I, Chiles Bleiloch, Clerk of the District Court, Ex-Officio, Auditor and Recorder in and for the said County and State, hereby certify that the above and foregoing is a full, true and correct copy of the original as the same appears of record or on file in my office. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at Malad, Idaho this 3rd day of May 2006

By _____
Clerk District Court Ex-Officio

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ORIGINAL

Marti Lundahl
PO Box 2814
Evanston, WY 82931
307-352-9577
Fax # 307-212-6888

IN THE UNITED STATES DISTRICT COURT FOR THE STATE OF WYOMING
CASPER DIVISION

MARTI LUNDAHL	:	**Case No. 2012- CV - 280-S**
Plaintiff	:	**VERIFIED**
vs.	:	**Plaintiff's Motion For A Declaratory Judgment To Decree The May 24, 2006 Contempt Judgment Entered In Idaho Federal Court Case No. 4:05-CV-127 Void Ab Initio As Applied To Plaintiff And Others**
AMERICAN BANKERS INSURANCE COMPANY OF FLORIDA	:	
Defendant	:	
	:	**To Be Considered After Considering :**
	:	**Plaintiff's Motion For A Declaratory Decree Finding The March 17, 2004 Utah District Court NAR Attorneys Fees Judgment And The April 3, 2003 Utah Supreme Court Civil Contempt And Attorneys Fees Judgment, Both Entered Against Holli Lundahl VOID As A Matter Of Law And To Vacate Same**

Comes Now Marti Lundahl and files this Motion for a declaratory judgment decreeing the May 24, 2006 contempt judgment entered in Idaho federal court case number 4:05-CV- 127, Holli Lundahl v. NAR, Inc., void ab initio as applied to Marti Lundahl, a non party to that action. Furthermore, this federal judgment is also void on it's face as to any person - based on standing defects in the complaining contempt

witnesses who obtained the May 24, 2006 federal contempt order.

To establish the constitutional defects in the May 24, 2006 Idaho federal contempt order entered in USDC-Idaho case no. 4:05-CV-127, Plaintiff adopts in full and incorporates herein, her motion for a Declaratory decree finding the March 17, 2004 Utah District Court NAR Attorney Fees Judgment and the April 3, 2003 Utah Supreme Court Civil Contempt and Attorneys fees judgment entered against Holli Lundahl VOID as a matter of law, **as predecessor argument to this motion** for declaratory decree ruling the Idaho May 24, 2006 federal Judgment void ab initio.

Plaintiff has standing to seek this declaratory decree because all of the aforesaid contempt judgments are being unlawfully applied against plaintiff - to avoid enforcement of a final Utah money judgment entered in Plaintiff's favor against the defendant herein American Bankers Insurance Company of Florida.

Furthermore, Plaintiff was first apprised by an OSC order entered by this District Court on February 27, 2013, that she had been unwittingly and unknowingly included as a contemnor in the above stated Idaho federal contempt judgment by way of footnote 2 of that judgment which asserts that plaintiff herein Marti Lundahl is also Holli Lucinda, the latter a party to that Idaho federal litigation. Marti Lundahl will file concurrently herewith, a response and supporting affidavit to this Court's February 27, 2013 OSC which will attest under penalty of perjury that Holli and Marti are not the same persons, and, that Marti and Holli have been the victims of a criminal scheme to bar their fair access to the courts through the corrupt use of various "partial" court offices as criminal enterprises to achieve the illegal objectives of extortion under color of law and criminal obstruction of justice by the tort defendants constitutionally liable to Marti and Holli.

Nevertheless before reaching the contempt issues raised in this litigation, it is necessary for Marti to attack the validity of the two contempt orders upon which this court predicates Marti's alleged rule 11 violations. This motion addresses the invalidity of the Idaho federal contempt judgment entered May 24, 2006 and facially directed against Marti Lundahl aka Marti Telford.

This Court Has Sua Sponte And Inherent Jurisdiction To Vacate VOID Judgments That Encumber A Record

The Wyoming Supreme Court held in re Emery v. Emery, 404 P.2d 745 (Wyo.

08/09/1965) : "The provisions of WY Stat. § 1-325, are irrelevant when the Plaintiff seeks to vacate a judgment wholly void for lack of jurisdiction, 30A Am.Jur., § 693, p 659. **The power of a court to vacate a void judgment is regarded as inherent and independent of any statutory authority. A Court will not permit a void judgment to encumber a record and will vacate the ineffectual entry thereof on application at any time.** 49 C.J.S. Judgments § 267, pp. 480-481. **A void judgment is not binding. *It confers no rights and equitable relief is mandated to prevent harm resulting from the fact that the judgment appears or purports to be valid.*** A.L.I. Restatement, Judgments, § 117, p. 565 (1942).

Attached hereto as exhibit "1" is the void March 17, 2004 NAR attorneys fees judgment which served as the basis of filing the Idaho federal court case, Holli Lundahl et al v. NAR, Inc, et al, case no. 4:05 – CV – 127. This judgment is established as void pursuant to the showing made in Plaintiff's motion for declaratory judgments decreeing the March 17, 2004 Utah District Court NAR Judgment and the April 3, 2003 Utah Supreme Court Civil Contempt Judgment, void ab initio. That Motion should be considered first by this court before considering this motion.

Attached hereto as exhibit "2" is the lien against Plaintiff's and Holli Lundahl's Idaho residence by NAR, Inc. and which unequivocally placed jurisdiction in the state of Idaho to attack this lien /collection process. (Moreover Holli Lundahl could obtain general personal jurisdiction over the NAR litigants because NAR Inc. does business in the state of Idaho as a national debt collector.). See exhibit "3" attached hereto for certificate of authority for NAR Inc. dated May of 2003.

it is the foregoing VOID process that plaintiff sought to collateraly attack in the state of Idaho.

INTRODUCTION

Void Judgments Are Subject To Collateral Attack Under The Declaratory Judgment Act If They Are Prima Facially Void And They Are Presented For The Purpose Of Inflicting Harm Against A Party To The Case

The State of Texas recently decided a case where the Plaintiff in the action collaterally attacked a void judgment in an offensive maneuver in a court of registration in

re **Wagner v. D'Lorm, 315 S.W.3d 188 (Tex.App. Dist.3 2010).** The Defendant moved to dismiss the action for lack of subject matter jurisdiction because plaintiff offensively collaterally attacked the void judgment in a different court under the Declaratory Judgment Act. The Texas Appellate court concurred with the Plaintiff holding that since the judgment was void as shown by the face of the record, the judgment could be collaterally attacked in any forum where collection on the judgment could be made. A part of the analysis in that case went as follows:

> Appellant Ronald R. Wagner sued appellees Roberto D'Lorm and Edward P. Dancause in Travis County district court seeking a declaration that a default judgment previously obtained by D'Lorm and his attorney, Dancause, against Wagner in a Zapata County district court was void. D'Lorm filed a plea to the jurisdiction asserting that the trial court did not have subject-matter jurisdiction to declare void the judgment of another district court.
>
> Analysis:
>
> The Travis County District Court's Subject-Matter Jurisdiction
>
> In this appeal from the grant of D'Lorm's plea to the jurisdiction on the pleadings, our task is to decide whether Wagner has pleaded sufficient jurisdictional facts to invoke the trial court's subject-matter jurisdiction, using a liberal construction of his pleadings. Miranda, 133 S.W.3d at 226. In his petition, Wagner alleged that the Zapata County default judgment is void because he was not named as a party to the prior lawsuit resulting in a judgment against Wagner.
>
> A judgment is void, and thus may be collaterally attacked, if the rendering court had "no jurisdiction over a party or his property, no jurisdiction of the subject matter, no jurisdiction to enter the particular judgment, or no capacity to act as a court." Austin Indep. Sch. Dist. v. Sierra Club, 495 S.W.2d 878, 881 (Tex. 1973); see also Browning v. Prostok, 165 S.W.3d 336, 346 (Tex. 2005) (same); Mapco, Inc. v. Forrest, 795 S.W.2d 700, 703 (Tex. 1990) (orig. proceeding) (same). Ely v. United States Coal & Coke Co., 243 Ky. 725, 49 S.W.2d 1021; **McDonald v. Mabee, 243 U.S. 90, 37 S.Ct. 343, 61 L.Ed. 608 (1917).** L.R.A. 1917F, 458; Restatement of the Law of Judgments, §§ 6, 8, and 117;1 Freeman on Judgments, §§ 226, 228, and 339. This Court has also held that a judgment may be collaterally attacked because of "fundamental error." Texas Dep't of Transp. v. T. Brown Constructors, Inc., 947 S.W.2d 655, 659 (Tex. App.--Austin 1997, pet. Denied). A court's rendition of judgment against a party not named in the suit is fundamental error. Mapco, Inc. v. Carter, 817 S.W.2d 686, 687 (Tex. 1991).
>
> Here, Wagner pleaded that he was neither named as a party nor served with process. If true, that would mean that the Zapata County district court committed fundamental error by rendering judgment against Wagner because he was not a party, see id. [1] The default judgment rendered against him would be void and subject to collateral attack. See Austin Indep. Sch. Dist., 495 S.W.2d at 881.

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1. Likewise here. Marti complains that she was not named a party to the Idaho federal litigation in re Holli Lundahl v. NAR, Inc.4:05-CV-127 and therefore it was fundamental error for the trial court to have entered a judgment against Marti. Furthermore, Marti contends that the court had no contempt jurisdiction over Marti because no OSC was issued nor served upon Marti in order to invoke the court's in personam contempt jurisdiction over Marti.

> D'Lorm asserts that, because the Zapata County court had subject-matter jurisdiction in that case and the time for filing an appeal from that judgment has expired, Wagner's only remedy "to attack" the judgment was a proceeding in the nature of a bill of review,a direct attack. We disagree. **Wagner brought his attack in a different court from the one that rendered the judgment under attack. Wagner's attack here is properly classified as collateral, not direct.** This Court has held that, in a collateral attack, the challenger must show in the record that the judgment was obtained without jurisdiction. Narvaez v. Maldonado, 127 S.W.3d 313, 317-18 (Tex. App.--Austin 2004, no pet.). Alfonso v. Skadden, 251 S.W.3d 52, 55 (Tex. 2008) ("'In order for a collateral attack to be successful the record must affirmatively reveal the jurisdictional defect.'" (quoting White v. White, 179 S.W.2d 503, 506 (Tex. 1944))). See also Browning, 698 S.W.2d at 363 (appeal from declaration rendered by one court declaring judgment of another court void is collateral attack); Empire Gas & Fuel Co. v. Albright, 87 S.W.2d 1092, 1096 (Tex. 1935) (attack on judgment of one court in another court is collateral attack);
>
> In light of the foregoing, we hold that **Wagner's pleadings were sufficient to give the trial court subject-matter jurisdiction to adjudicate his claims for declaratory relief. The court therefore erred when it granted D'Lorm's plea to the jurisdiction. We reverse the judgment and remand for further proceedings.**

The same principle applies when the judgment under attack is a contempt injunction, as in the case at bar with respect to the May 24, 2006 Idaho federal judgment re USDC-Idaho case no.4:05-CV-127. Likewise, with respect to contempt/injunction orders unconstitutionally obtained. The Supreme Court held in **Baker v. Gen Motors Corp, 522 U.S. 222, 234-36, n 9; 118 S Ct 657; 139 L.Ed.2d 580 (1998) ("if the sister state injunction order was not constitutionally obtained, full faith and credit cannot be accorded that judgment in the forum where that judgment comes at issue.** Accord in **Chapman v. Krutonog, No. B214451 (Cal.App. Dist. 2010);** Advanced Bionics Corp. v. Medtronic, Inc. (2002) 29 Cal 4th 697, 708 . Void judgments are never given credit. Prather v. Loyd, 86 Idaho 45, 50, 382 P.2d 910, 915 (1963) (**"[a] void judgment is a nullity, and no rights can be based thereon; it can be set aside on motion or *can be collaterally attacked at any time.*"**). Other courts have also held that **full faith and credit applies equally to equity decrees as it does money judgments.** McElroy v. McElroy, 256 A.2d 763 (Del.Ch.1969); Higginbotham v. Higginbotham, 92 N.J. Super. 18, 222 A.2d 120 (App.Div.1966); Miller v. Miller, Supra ; Restatement (Second) of Conflict of Laws § 102 (1971); 50 C.J.S. Judgments § 889 h. (1947). "Full faith and credit extends to foreign equity decrees or money judgments which order an in personam payment of money or a duty in equity. Varone v. Varone, 359 F.2d 769 (7th Cir.1966); Rozan v. Rozan, 49 Cal.2d 322, 317 P.2d 11 (1957); Ivey v. Ivey, 183 Conn. 490, 439 A.2d 425 (1981); Weesner, 168 Neb. 346, 95 N.W.2d 682 (1959); Higginbotham v. Higginbotham,

supra; Restatement (Second) of Conflicts of Laws § 102 comment d (1971)

The Judgment at issue here was the product of a case in which Marti Lundahl was not named as a party nor was Marti served notice regarding any contempt matter directed at her in the Idaho federal case. This Court and the Defendant are seeking to enforce the Idaho federal judgment against Marti because the Idaho federal judge sua sponte named Marti as subjected to the May 24, 2006 judgment in footnote 2.

Marti has concurrently filed under separate cover an affidavit which attests and establishes as a matter of fact and law that Holli and Marti are different persons, it is Plaintiff's position that the Idaho federal judgment should be declared void and set aside so as not to impact plaintiff any further in this or any other proceeding in which plaintiff may become a party. Furthermore, the age of the judgment being attacked bears no consequence. See *United States v. One Toshiba Color TV*, 213 F.3d 147, 157 (10th Cir. 2000) (noting if a final judgment is void, "no passage of time can transmute [it] into a binding judgment".).

Marti now proceeds to lay out a Statement of Facts relevant to the Idaho federal judgment.

Uncontroverted Facts

1. Marti adopts the factual history set forth on pages 5-16 of her Motion for Declaratory Judgment to decree the March 17, 2004 Utah District Court NAR Attorney Fees Judgment and the April 3, 2003 Utah Supreme Court Civil Contempt and Attorneys fees judgment entered against Holli Lundahl VOID as a matter of law, . . . as if fully set forth herein and further states:

2. In the latter part of 2005, the NAR litigants recorded the void March 17, 2004 attorneys fees judgment against Holli Lundahl in the state of Idaho for enforcement purposes (in spite of knowing that the judgment was a nullity. The March 17, 2004 attorneys fees judgment on it's face pointed to the void Utah Supreme Court civil contempt judgment. See exhibits "1"and "2" attached for this judgment and recordation.)

3. The state of Idaho had both general personal jurisdiction over NAR Inc. (see exhibit "3" attached) and in rem jurisdiction over Holli and Marti's Idaho properties (refer back to exhibit "2" attached which reflects a special warranty- reconveyance deed conveying Idaho residential property to Holli Lundahl), to address the void filing under

the Idaho wrongful lien act.

4. As shown in Marti's motion for Declaratory Judgment to decree the March 17, 2044 NAR Attorneys Fees judgment and the April 3, 2003 Utah Supreme Court civil contempt judgment VOID ab initio, these judgments were void primarily because of federal injunctions under the Bankruptcy code which stripped the state courts of all subject matter jurisdiction to issue any process against Holli, a chapter 13 debtor.

5. It is undisputed that Holli Lundahl filed chapter 13 bankruptcy on January 31, 2003 in the state of Utah as Bankruptcy case no. 03-21660. On June 10 and 11, 2003, the Bankruptcy Judge Judith Boulden conducted a confirmation hearing in Lundahl's chapter 13 case and confirmed a modified chapter 13 plan after disallowing debts claimed by Eli Lilly, LAHA, the IRS and CNA, which determined were all VOID. The Bankruptcy Judge ordered Holli to file an amended plan pursuant to her rulings. On June 19, 2003, Holli filed her amended chapter 13 plan which provided for medical creditors only. See exhibit "4" attached. No creditor or party in interest appealed the confirmation order.

6. Three months after Holli's Amended Chapter 13 plan had been confirmed, another bankruptcy judge invoked jurisdiction over Holli's chapter 13 case and sought to conduct another confirmation hearing. Holli filed a Mandamus Petition against Bankruptcy Judge Thurman barring him from acting unconstitutionally with respect to Holli's chapter 13 bankruptcy case. In retaliation to Holli's mandamus petition, Bankruptcy Judge Thurman dismissed Holli's chapter 13 bankruptcy case asserting that Holli no longer qualified as a chapter 13 debtor given all of the debts to Eli Lilly, LAHA, CNA and the IRS were disallowed as VOID. See 11 USC § 109(e) of the Code requires the chapter 13 bankruptcy debtor to owe a bonified debt to obtain standing as a debtor under the Code.) Bankruptcy Judge Thurman then dismissed without prejudice several of Holli's "removed cases from other jurisdictions", for lack of residual subject matter jurisdiction - given his dismissal order of the main bankruptcy case. These dismissal orders occurred while Holli's motions to withdraw the reference of her removed cases, were pending.

7. When Holli's motions to withdraw the reference of her removed cases citing personal injury and RICO claims to the Bankruptcy Court reached the single District Court assigned to all of Holli's cases, i.e Judge Paul Cassel for disposition, Judge Cassell converted all of Holli's motions into appeals given Holli's bankruptcy case had

been dismissed. Judge Cassell then entered the same perfunctory affirmance order in every case dismissed by the Bankruptcy Judge Thurman; thereby also dismissing Holli's removed cases for lack of residual subject matter jurisdiction, & WITHOUT PREJUDICE.[1] Holli appealed every dismissal because they involved removed cases wherein extensive litigation had occurred for 9 years or less. In late October and November of 2005, the 10th circuit would essentially affirm each dismissal judgment entered by Judge Paul Cassell. Under the Utah Savings statute, Holli then had one year to re-bring all of her dismissed claims in another forum from the date the appellate mandates were returned to the District court in late November and December of 2005.

Plaintiff now lists the relevant cases dismissed without prejudice in the Utah and 10th circuit courts sitting in Bankruptcy, as these non-prejudicial dismissal dispositions are relevant to the lies and fraud upon the court perpetrated in the Idaho federal contempt case and mandate vacation of all judgments entered in USDC-Idaho case no. 4:05-CV-127.

Bankruptcy Removal Proceedings As To Eli Lilly et, al,

(1) On September 15, 2003, Holli removed 6 related and pending state and federal cases involving **Eli Lilly and Company,** ACS, GE, Pacific Mutual Insurance Company (PIMCO), Doug Murdock and others, AND dating back as early as 1992, to the Utah Bankruptcy Court as Adversary proceeding # 03-P-02402. Attached hereto as exhibit "5" is that removal petition filed in USDC-Utah case no. 2:04-CV-88, Judge Paul Cassell presiding. Attached hereto as exhibit "5" is the removal petition filed in the Utah federal court.

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1. Judge Cassell made subsequently mooted inaccurate assertions in his perfunctory dismissal orders, to wit: that Holli failed to properly serve summonses on the defendants in her adversary proceedings and that Holli failed to prosecute her appeals. First and Foremost, the summonses had been properly served on the defendants when the process had been initiated in other jurisdictions before removal to the district court. After removal, a plaintiff is not required to serve the defendant with a new summons. Finally, with respect to prosecuting her matters as appeals, in the first paragraph of every order, Judge Cassell admitted that he had converted Holli's motions to withdraw the references into appeals at the time he issued his dismissal orders. Hence Holli was given no notice that Judge Cassell would proceed on the matter as an appeal. Nevertheless, the final rulings dismissing the cases without prejudice mooted all interlocutory and ancillary rulings. See Steel Co. v. Citizens for a Better Env., 523 U.S. 83, 100 n.3 (1998) (**a determination that the district court lacked jurisdiction over a claim moots any other challenge to the claim. Indeed, we have no power to decide any ancillary issue if we lack jurisdiction. See id. At 93-102.**) Accord in Beierle v. Colorado Department of Corrections, No. 03-1174 (10th Cir. 10/22/2003)

(2) The returns of summonses in the removed proceedings were filed in the original actions. See exhibit "6" attached for just one docket record showing returns of summonses in a removed federal case against Eli Lilly. Also attached to exhibit "5" is a certificate of service showing service of the removal petition on the name parties.

(3) Attached hereto as exhibit "7" is the dismissal order entered by Judge Paul Cassell and affirmed on appeal by the 10th Circuit in November of 2005. As can be seen by this order, **the dismissal was without prejudice.**

(4) ELI LILLY would falsely advocate in the Idaho federal action that HOLLI was declared a vexatious litigant in the California Courts. Attached hereto as exhibit "8" the California Federal Docket showing at PACER Doc. 147, the California Federal Judge denied LILLY's request to declare Holli vexatious. In fact no California trial court declared Holli vexatious.

Bankruptcy Removal Proceedings As CNA, et al.

(1) Holli removed her litigation pending against CNA Financial Corporation and the Comptons to the Utah Bankruptcy Court As Adversary Proceeding # 03-P-2336. This case was moved to District Judge Paul Cassell's court and assigned case no. 2:04-CV-88 PGC. On September 1, 2004, Judge Paul Cassell **dismissed** Holli's removed cases against CNA and the Comptons **without prejudice.** Attached hereto as exhibit "9" is this dismissal order. The dismissal was affirmed on Appeal by the 10th Circuit and the appellate mandate returned to the District Court in November of 2005.

Idaho Proceedings Re LAHA

(1) In 2005, Los Angeles Home-Owners Aid filed a federal case against Holli in the Idaho federal court as 4:05-cv-00126-BLW. This case was dismissed for lack of subject matter jurisdiction because an involuntary bankruptcy petition was filed against HOLLI in California in February of 2005.

When the Idaho federal judge allowed intermeddling by the foregoing non-parties into the Idaho federal litigation against NAR, Inc., the foregoing intermeddlers would file false petitions to the Idaho judge claiming that HOLLI had tried her claims against these

persons and had lost on the merits, and that HOLLI had been validly declared vexatious in California trial courts, the Utah Supreme Court and the Idaho federal court. (Noting that before one can be declared vexatious, the Court must have jurisdiction over the subject matter. Catholic Conference, 487 U.S. At 74-5.). The record shows that no vexatious litigant order was issued by the California trial court (refer back to exhibit "8" attached) or by the Idaho federal court . Furthermore, the Utah Supreme Court and the Idaho federal court lacked jurisdiction to enter any contempt orders against Holli.

8. After NAR obtained their illegal and void attorneys fees judgments against Holli, NAR- a national collection agency, published these void judgments all over the internet in continuing publications - thereby causing significant damages to Holli and other partner's commercial interests. NAR also recorded these void judgments against Holli's credit report.

9. Holli and her 2 business partners brought suit against NAR, in the federal court in Idaho. The Idaho federal action case no. 4:05-CV-127 was brought to : (1) void and vacate : (a) the NAR lien, (b) the March 17, 2004 Utah District Court NAR Attorneys Fees Judgment, and (c) the April 3, 2003 Utah Supreme Court Civil Contempt Judgment; all under the Declaratory Judgment Act; (2) seek remedy under the Unlawful Debt Collection Practices Act against NAR, Inc and her co- conspirators, and (3) seek treble damages against NAR Inc. under the RICO statute for substantial injury to plaintiff's economic business interests as a result of NAR's fraudulent conduct. See Deck v. Engineered Laminates et. al, 349 F.3d 1253 (10th Cir. 2003) (authorizing RICO actions for fraud related conduct that effects economic interests when mails or wires are used.). Plaintiffs S. Walker and Mari Galhardo were business partners with Plaintiff Holli Lundahl and were therefore also injured.

10. The Idaho federal action also sought prospective declaratory and injunctive relief against the Utah Supreme Court justices entering the civil contempt judgment against Holli - under Section 1983. No where in the complaint did Holli seek money damages against these judicial officials as she knew such action would be barred by judicial immunities. When Holli learned of a 9th circuit ruling in re **Wolfe v. Strankman, No. 02-15720 (9th Cir. 2004)** which instructed that a litigant suing under a vexatious litigant statute must sue only the chair of the judicial council in his administrative capacity as the enforcer of the statute or rule, Holli filed an amended complaint on April

7, 2006, naming only Utah justice Christine Durham in her administrative capacity. Holli tendered the amended complaint to the federal clerk who refused to file the First Amended Complaint pursuant to instructions of the sitting federal judge Richard Tallman. (See supporting affidavit of Holli Lundahl.) In July of 2006, the federal clerk sent Holli a letter indicating that they were returning Holli's First Amended Complaint because Judge Tallman instructed the clerks not to file this document ; in express violation of FRCP Rule 15(a). Attached hereto as exhibit "10" is the federal clerk's letter.

11. Immediately after Holli and other plaintiffs submitted their First Amended Complaint for filing on April 7, 2006, the federal judge sitting on the Idaho litigation as PACER Doc. no. 19, issued an OSC directed at Holli Lundahl only to show cause why the federal court should not declare Holli a vexatious litigant pursuant to the void Utah Supreme Court civil contempt judgment and the March 17, 2004 NAR attorneys fees judgment, registered in the Idaho action. The Idaho federal judge six days later as PACER Doc. no. 20, amended his OSC order after noting that he failed to provide an adequate notice procedure to Holli. The OSC was amended to provide for certified mail return receipt requested delivery of the OSC upon Holli at Holli's claimed Malad, Idaho address. See Court docket reflecting these OSC notices as exhibit "11" attached hereto.

12. Holli received the OSC at her home in Malad Idaho. After the OSC issued, various non-parties invited themselves into Holli's Idaho federal litigation as tortious intermeddlers and sought to advance a broad contempt judgment/injunction against Holli which would bar Holli's prospective litigation against these tortfeasors - given the prior dismissals without prejudice rulings entered in Hollis prior cases against these persons in the Utah Bankruptcy Courts. [2]

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2. The docket record in the Idaho federal litigation shows the following appearances by tortious intermeddlers into Hollis Idaho federal litigation:

(a) As PACER Doc. no. 26: Intermeddlers Eli Lilly, Advanced Cardiovascular Systems, Pacific Life Insurance Company (PIMCO), GE, Prudential and Citigroup, collectively filed a petition asserting abusive and criminal litigation practices by Holli dating back to 1992 when Holli commenced litigation against Eli Lilly, et al. LILLY falsely claimed that all of Hollis claims against LILLY had been determined on their merits against Holli. that Holli had been declared a vexatious litigant by the California trial court, and that LILLY had spent over $1,000,000 in attorneys fees fighting Holli's allegedly frivolous claims. (One would ask why it would cost $1 million to defeat frivolous petitions unless in fact the petitions were not frivolous.). Refer back to exhibit "7" for dismissal order of claims against LILLY et al, **without prejudice.**

13. Holli appeared at the hearing and argued the following grounds for removing Judge Tallman from the cause:

(1) mandatory disqualification because Judge Tallman owned upwards of $250,000 stock interests in PIMCO aka Pacific Life Insurance Company, a complaining intermeddler and joint tortfeasor in Holli's lawsuit against Eli Lilly and Company. (Refer back to exhibit "5" attached for joint tortfeasors.). Because of this stock interest, Judge Tallman was barred from sitting on Holli's contempt proceeding as a matter of law under the Judicial Disqualification statute. See exhibit "12" attached for Judge Tallman's financial report for 2006. See exhibit "13" attached for information on PIMCO. Judge Tallman refused to recuse himself.

(2) HOLLI next argued that not one party to the case had filed a petition for contempt between the dates of the issuance of the OSC on April 7, 2006 and the hearing date on May 15, 2006 and therefore the judge lacked jurisdiction under rule 11 to enter any contempt order against Holli. In response Judge Tallman indicated he was exercising jurisdiction over the intermeddlers contempt petitions under his inherent authority.

(3) Holli subsequently argued that the complaining witnesses had no standing to file any contempt petition against Holli because the allegations in Holli's complaint did not plead any injury to any of the volunteer intermeddlers, and accordingly the court had no jurisdiction over the petitions submitted by the volunteer intermeddlers, Holli complained that the intermeddlers lacked standing to interfere with her litgation against the NAR defendants. Judge Tallman did not respond to this contention during the hearing.

(4) In closing, Holli pointed out to the court that the volunteer inter--meddlers had filed petitions containing blatantly false information and that the motive for doing so was because the intermeddlers knew Holli was going to reopen every one of her lawsuits dismissed without prejudice during her bankruptcy case and that she had until November of 2006 to do so. It is clear by Judge Tallman's later produced order, that this judge had every intention of blocking Holli from ever re-filing any of her suits against the intermeddlers..

(b) As Pacer Doc no. 23, Intermeddler LAHA claimed that Holli engaged in abusive litigation by invoking the jurisdiction of the bankruptcy court to summarily litigate all of her claims in one forum convenient to Holli, the debtor.

(c) As Pacer Doc. Nos. 27, 28 and 29, the CNA and Compton Defendants filed numerous corrected petitions asserting that Holli lost her claims against them on its merits, that these persons feared Holli would pursue litigation against them again, and that Holli allegedly engaged in service fraud by repeatedly filing numerous false certificates of services asserting that represented counsel was served with respective motions. (Refer back to exhibit "9" attached for dismissal order as to CNA, et al.). Furthermore, Holli maintains a third party fax account and also emails process to maintain a verifiable record of service. In addition, Holli is well known for videotaping personal service of process. In fact as Pacer Doc. no. 55 in re USDC-Idaho case no. 4:05-CV-460, Holli provided videotapes of all of her services on the defendants. See exhibit "14' attached.

Almost two weeks later on May 24,2013, Judge Tallman entered a scathing and corrupt Memorandum Decision against Holli which tantamounted to a criminal indictment.

Judge Tallman prefaced his decision by first manipulating the facts and jurisdictional bases' for Plaintiff's claims against the NAR defendants and the Utah Supreme Court justices. Judge Tallman made the following findings

Re The Utah Supreme Court Contempt Judgment

(1) *Lundahl v. NAR, Inc.*, 434 F.Supp.2d @ 856-857 (ID, 2006):

> The Court finds that the present case, *Lundahl v. NAR, Inc.*, 4:05-cv-00127-RCT, **is a blatant attempt to re-litigate previously unsuccessful claims that were dismissed as frivolous in the Utah state courts.** *See* Lundahl v. Quinn, 67 P.3d 1000, 1001 (Utah 2003) ("We deny the petition and further hold that it is frivolous.").
>
> Lundahl's belligerent attempt to evade collateral estoppel supports the allegations below that her *modus operandi* is to relitigate claims in a new jurisdiction once they have been dismissed elsewhere as frivolous.

Judge Tallman was referring to the Utah Supreme Court civil contempt judgment. As shown in Plaintiff's Motion to attack this judgment, this Writ action was filed to compel Judge Quinn to address Holli's Notices to submit for decision. Judge Quinn did address Hollis notice to submit two months before the Writ Petition was decided, thereby mooting the Writ petition. Nevertheless, the Writ Petition did not address the merits of the underlying action and this fact was evident from reading the contempt judgment itself.

Irrespective, the Utah Supreme Court civil contempt judgment suffered from other fatal jurisdictional defects aside from the fact it had been mooted two months before the Utah Supreme Court sat on the matter. As argued in Plaintiff's motion to attack this judgment, it violated the automatic stay and removal statutes of the bankruptcy code and the contempt judgment was entered ex parte and without notice to Holli. There was also structural error in the Judgment because it directed the trial court to enter an attorneys fees judgment for litigation activities which admittedly occurred at the appellate level in violation of URCP rule 11 and URAP rule 38.

Re Holli's Idaho Residence Address

(2) *Lundahl v. NAR, Inc.*, 434 F.Supp.2d @ 857 (ID, 2006):

> This Court also has reason to believe that Plaintiff is not a resident of Idaho, given the numerous addresses she has used in this Court and the fact that Court mail to various plaintiffs in her actions is returned as undeliverable. See exhibit "17" attached for Oneida County Tax record

showing ownership by Holli of the Malad Property.

Judge Tallman's finding with this respect to Hollis Idaho residency was remarkable in light of the fact that Judge Tallman caused Holli to be served with the OSC at her Malad, Idaho residence and NAR attached this residence to pay off it's void March 17, 2004 Attorneys fees judgment.

Re the 1997 Ninth Circuit Vexatious Litigant Order

(3) *Lundahl v. NAR, Inc.*, 434 F.Supp.2d @ 858 (ID, 2006):

In re Holli Lundahl, No. 97-80258, Order (9th Cir. July 17, 1997), the 9th circuit issued an Order to Show Cause, listing nineteen (19) cases which had been initiated by Lundahl in that court. Of those, seventeen (17) had been dismissed for lack of jurisdiction. The Ninth Circuit concluded that "Respondent's practice of burdening this court with meritless litigation justifies careful oversight of respondent's future litigation in this court." *Id.*

Judge Tallman failed to acknowledge several defects in the rendition of the 9th circuit pre-filing injunction. These defects are as follows:

(1) Attached hereto as exhibit "15" is a copy of the 9th circuit docket as it existed in 1998 when it was introduced into litigation involving Holli Lundahl in Utah. Source One, an arm of Citigroup (the latter one of Eli Lilly's corporate malfeasance insurers) introduced exhibit "15" into foreclosure litigation against Holii. The 9th circuit docket as it then existed bore a non-existent P.O.Box address for Holli which the 9th circuit then claimed to have served notice of the OSC upon Holli. During the Utah litigation seeking to foreclose on Holli's property, property records were produced which showed that Holli resided at and owned 2748 N. 930 E. Provo, UT. See the records extracted from this state litigation as exhibit "16" attached hereto. Since the 9th circuit did not serve Holli with the OSC at Holli's correct residence address, no notice was given to Holli of the 9th circuit pre-filing order, thus rendering it VOID. Also, because Holli procedurally defaulted the contempt action buttresses the contention of no notice.

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3. **The 9th Circuit Contempt / Injunction Order was Void Because No Notice Was Served Upon Holli To Give Holli**

See WILSON v. NORTH CAROLINA, 169 U.S. 586 (1898) (**When the contemnor denies service of the rule to show cause, the writ must be dismissed for want of jurisdiction and the rule to show cause, discharged.**). See also Peay v. Bell South Med. Assistance Plan, 205 F.3d 1206, 1209-10 (10th Cir. 2000) (stating a court may exercise personal jurisdiction over a defendant only if the procedural requirements for service of process are satisfied and the exercise of jurisdiction satisfies due process). Also see Ministry of Defense v. Cubic Defense, 385 F.3d 1206 (9th Cir. 2004) (Citing In re Center Wholesale, Inc., 759 F.2d 1440, 1448 (9th Cir. 1985) (**holding judgment void because aggrieved party had not received adequate notice of the proceedings** .) Same in Printed Media SeTVS., Inc. v. Solna Web, Inc., 11 F.3d 838, 84243 (8th Cir. 1993); **SIMON v. SOUTHERN RAILWAY, 236 U.S. 115 (1915)** (United States courts by virtue of their general equity powers have jurisdiction to enjoin the enforcement of a judgment obtained by fraud or without service. Furthermore, a **judgment against a person on whom no process has been served** is not erroneous and voidable, but. upon principles of natural justice, and also under the due process clause of the Fourteenth and Fifth Amendments, **is absolutely void.**).

(2) In addition, the face of exhibit "15" attached shows that the 9th circuit opened an independent action against Holli without any juridical pleading before the 9th circuit court giving that court subject matter jurisdiction to enter any contempt rule against Holli. This also invalidated the entire appeal case no. 97-80258 which was in fact unilaterally opened by the 9th Circuit law clerk Susan Gelmus. [4]

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4. **The 9th Circuit Did Not Have A Juridicial Petition Before Their Bar When The Motions Attorney Invalidly Issued A Contempt Judgment Against Respondent Holli Lundahl; Hence There Was No Subject Matter Jurisdiction To Enter A Contempt Order Against Holli**

In order for an appellate court to acquire article III powers, a final judgment raised by a timely notice of appeal, or a timely injunction appeal must be filed with the appellate court. Gladstone, Realtors v. Village of Bellwood. 441 U.S. 91, 99, 99 S.Ct. 1601, 1608, 60 L.Ed.2d 66 (1979). Rivet v. Regions Bank of Louisiana, 522 U.S. 470, 118 S.Ct. 921, 139 L.Ed.2d 912 (1998), quoting caterpillar, Inc. v. Williams, 482 U.S. 386, 392. 107 S.Ct. 2425,96 L.Ed.2d 318 (1987). See STOCKYARDS NAT. BANK OF SO. OMAHA v. BRAGG ET AL., 67 Utah 60, 246 P. 966 (1925) (**It is fundamental that a petition or pleading of some kind is the juridical means of investing a court with jurisdiction of subject-matter to adjudicate it**, and a judgment which is beyond or not supported by pleadings must fall. So too must a judgment or sequestrating order fall for other errors of law apparent on the face of the mandatory record, such as showing the judgment obtained to be at variance with the practice of the court or contrary to well-recognized principles and fundamentals of the law. Where the face of the record shows that fundamental law was disregarded in the establishment of the judgment; the proceedings and the judgment will be rendered null and void for all purposes.).

Furthermore, in **Syngenta Crop Protection, Inc. v. Henson, 537 U.S. 28, 123 S.Ct. 366, 369-70 (2002)** the High Court held that "[t]he All Writs Act does not confer subject matter jurisdiction on federal courts; there must be an independent basis for subject matter jurisdiction in order to issue a Writ or injunction under the All Writs Act. Same in Morris v. T E Marine Corp, 344 F.3d 439 (5th Cir. 2003); Hornung v. City of Oakland No. C-05-4825 EMC, (Docket No. 20) (N.D.Cal. 2006) (The All Writs Act by itself does not provide a basis for federal question jurisdiction.); Retirement Systems v. J.P. Morgan Chase, 386 F.3d 419 (2nd Cir. 2004); Kiay v. United Healthgroup, Inc., 376 F.3d 1092 (11th Cir. 2004); In Re Tennant, 359 F'3d 523 (D.C. Cir. 2004) (All Writs Act confers authority to issue writs of mandamus "in aid of' the court's prospective jurisdiction". Hence subject matter jurisdiction must be independently provided by another federal statute.); U.S. v. Raheman, 355 F.3d 40 (1st Cir. 2004) (no subject matter jurisdiction in federal court unless plaintiff's complaint states another federal daim outside of the All Writs Act.)

If subject matter jurisdiction is lacking, the jurisdiction to render an order of contempt is also lacking. See also United States v. United Mine Workers of Am., 330 U.S. 258, 295 (1947) (If no jurisdiction existed, "then the proceedings were void and the civil contempt citation must be reversed "in its entirety."); Magness v. Russian Federation, 247 F.3d 609,619 n. 19 (5th Cir.), csrt. denied, 122 S.Ct. 209 (2001); Followed in Rieser at 1224 (Where a court lacks jurisdiction in a case, any judgment regarding the case is void. The effect of a void judgment is that it must be treated as having never existed. A void judgment cannot be recognized by anyone, but must be entirely disregarded or declared inoperative by any tribunal in which effect is sought to be given to the void judgment. It has no legal or binding force or efficacy for any purpose or at any place .... All proceedings founded on the void juclgment are themselves regarded as invalid and ineffective for any purpose.). See also Meadows v. Dominican Republic, 817 F.2d 517, 521 (9th Cir. 1987)(void judgments can be attacked at any time and in any proceeding where credit is sought to be given to the void judgment.) .

(3) Also, it is well established that ELI LILLY had orchestrated Holli's brutal assaults in 1995 by IRS officers and HCA hospital staff, and that together these assaults put Holli Lundahl into a coma. It is also well established that these IRS officers subsequently charged Holli with federal assault crimes to explain the seriousness of Holli's personal injuries. Subject to these fabricated charges, Holli was placed in the MDC in Los Angeles in a comatose and paralyzed condition until she could be tried on the charges. Holli's intake medical record at the MDC showed that Holli was paralyzed and in a coma when she was registered into the medical unit at the MDC. See exhibit "18" attached. (Holli later brought suit on the foregoing assault claims. The action was removed to the bankruptcy court and dismissed without prejudice by Judge Paul Cassell in 2004. See exhibit "23" attached for the docket record and dismissal without prejudice order.)

Nevertheless, Twenty-one (21) out of the Twenty-two (22) notices of appeals referenced in the 9th circuits unserved OSC, were filed while Holli was in a coma in the MDC and awaiting the ability to be tried for the assault charges, or while Holli was housed in other jails subject to other charges advanced by Eli Lilly and Lilly's corporate malfeasance insurers. Holli did not and could not have executed the notices of appeals submitted to the 9th circuit court while she was in a coma and/or otherwise disabled from filing or executing any process. Moreover, according to later subpoenaed records, the clerks of the 9th circuit immediately dismissed Holli's notices of appeals for lack of subject matter jurisdiction because they were not based on a final judgment and because no other notarized IFP papers were submitted by Holli to obtain waiver of filing fees. (This should have been the first clue that Holli did not execute the Notices of appeals.). Holli has always maintained that Eli Lilly forged Holli's name to the multiple notices of appeals in order to extract an ex parte and unnoticed pre-filing order against Holli - having been unsuccessful at doing so at the trial level. (Refer back to exhibit "8"attached PACER Doc. no. 147 showing this failed attempt.). It is well established that forged process voids proceedings based thereon. [5]

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5. **The Notices of Appeals Supporting The 9th Circuit Contempt / Injunction Order Were Forged In Respondent's Name Thereby Rendering Them Void Ab Initio and Invalidating The Resulting Contempt / Injunction Order By The 9th Circuit Court**

It is well settled that a document which has been forged is void ab initio. See In re Orosco, No. 87-1933 (9th Cir. 1988) (forged document is void ab inito). In addition, any document based on a forged document is likewise void. See In Re Abboud, BAP No. 99-033 (10th Cir. 1999) citing to Heiser v. Woodruff, 327 US 726 (1946) (judgment is procured by fraud is void ab initio.). See also Weber Meadow-View Corp. v. Wilde, 575 P.2d 1053, 1054 (Utah 1978) (**where the record showed subterfuge, devious means, or collusion which prevented a party from fairly appearing before the court, any resulting judgment is void and must be vacated.**); In re KOUGASIAN v. TMSL, INC., 359 F.3d 1136 (9th Cir. 2004) (Full Faith and Credit Clause does not give credit to a judgment obtained by way of extrinsic fraud and fraud upon the court. Citing Barrow v. Hunton, 99 U.S. (9 Otto) 80 (1878)). "If the court "finds that fraud played a part in obtaining a judgment, it will deprive the judgment of any enforcement effect.. " McDaniel v. Traylor, 196 US 416, 423.

(4) Finally, the 9th circuit vexatious litigant order could no longer be enforced under California law because vexatious litigant orders are time limited to 7 years and at the time Judge Tallman purported to enforce this void order, it was 9 years old. [6] Accordingly, Judge Tallman could not use this order as a basis to execute another vexatious litigant order in the Idaho federal litigation.

For all of the foregoing reasons, the 9th circuit pre-filing order was void ab initio and could not support Judge Tallman's May 24, 2006 contempt injunction against Holli.

Re The Criminal Fraud Charges Advanced Against Holli

(4) *Lundahl v. NAR, Inc.*, 434 F.Supp.2d @ 858 (ID, 2006):

Several courts, including this one, have also noted irregularities in Lundahl's service of process which may well be evidence of deliberate falsification of documents to influence judicial proceedings. *See, e.g., Caffree v. Lundahl,* 143 Fed. Appx. 102, 106 (10th Cir.2005); *Lundahl v. Public Storage Mgmt., Inc.*, 62 Fed.Appx. 217 (10th Cir.2003); *Telford v. Brown,* No. 4:05-cv-00460-RCT, Order (D. Idaho April 7, 2006); *Los Angeles Home-Owners Aid, Inc. v. Lundahl,* No. 05-126, 2005 WL 1140649 (D.Idaho May 13, 2005); *Lundahl v. CNA Ins.,* No. 20010845-CA, 2003 WL 22145999 (Utah App.2003) .

Affidavit of J. Kevin West, No. 4:05-cv-00127-RCT at 2-3 (Docket No. 30) (noting that Plaintiff signed numerous certificates indicating that service of process had been made when West did not actually receive the documents and pleadings); Affidavit of Kent A. Higgins, No. 4:05-cv-00127-RCT at 2 (Docket No. 31) (claiming that a document with a forged signature was filed in a District of Idaho case).

Footnote 2 : Plaintiff has employed numerous aliases in her past litigation including, but not limited to, M. H. Telford, Marti Telford, Holli Lundahl, H. Lundahl, and Marti Lundahl, and Holly Mattie Telford. 7 *See, e.g., Telford v. Brown,* No. 4:05-cv-00460-RCT, Order (D. Idaho April 7, 2006). This Order shall apply to Plaintiff even if she improperly proceeds under one of her current or future aliases. **It will also bind all persons acting in concert with her.**

From 2006 through 2009, Holli would be prosecuted criminally for the foregoing

6. In **Wolfe v. Strankman, No. 02-15720 (9th Cir. 2004),** the ninth circuit opined that Wolfe remained on the vexatious litigant list for seven years and on April 19, 1999, Wolfe's name was removed from the list, and the prefiling order against him was rescinded based on the limitations period set out under the California vexatious litigant statute.

7. In the Idaho litigation, Judge Tallman found without any evidentiary support that Holli Lundahl aka Holli Telford was also Marti Lundahl aka Marti Telford.

fraud and forgery allegations cited in federal judge Tallman's May 24, 2006 contempt injunction – under the federal perjury statute. See exhibit "19" attached hereto for 302 FBI report admitting to this perjury prosecution.

Wyoming chief federal judge William Downes presided overc allc of Holli's criminal prosecutions. Judge Downes refused to allow Holli to represent herself and ordered representation by the public defender's office. Judge Downes also kept Holli in the federal prison system as a pre-trial detainee for a period of 3 years while the multiple criminal cases were pending, in part to: (1) ferret out Holli's alleged prosecutions under multiple alias names constituting interstate identify fraud, (2) to force Holli to undergo numerous medical examinations which confirmed or invalidated the injuries Holli claimed to have sustained at the HCA hospital in September of 1995 at the hands of IRS employees and hospital staff and as shown on the MDC intake report attached hereto as exhibit "18", and, (3) to establish whether Holli did indeed have a residence in Malad Idaho based on contrary findings by Idaho federal Judge Richard Tallman as asserted in exhibit "19" attached hereto.

From 2006 to 2007, federal public defender Robert Steele communicated with Plaintiff Marti Lundahl via telephone and in writing to obtain defense evidence rebutting the charged crimes against Holli. See exhibit "1" attached to Marti Lundahl's affidavit for written communication from FPD Steele. As shown in FPD Steele's written communication, Steele admitted that one of the primary purposes of the criminal prosecution was to verify Holli's injuries sustained from the 1995 assaults while in custody of the HCA hospital in orange county, California. (See attached hereto as exhibit "20", the PACER docket no. 238 in re USA v. Holli Lundahl, case no. USDC-Utah 2:06-CR-693 showing that the FDP's office subpoenaed these records on Holli.).

Marti responded to FPD Steele by providing the requested records, list of witnesses, a letter from her private doctor, and a demand that Marti be permitted to testify on Holli's behalf concerning Holli's 1995 witness tampering claims against Eli Lilly, et al.. In her demand letter, Marti also contended that LILLY and other tortfeasors in Holli's RICO cases had attempted to witness tamper with Marti in April of 2006, given to very suspicious circumstances surrounding Marti's near fatal 2006 auto accident by a hit and run driver operating a 5 ton Hummer without license plates and that ran over the top of Marti's hyundai crushing Marti's body inside her small car. See the whole of Marti's concurrently submitted affidavit in response to this court's 2-27-13 OSC

Marti was never given the opportunity to testify because Holli's criminal cases were dismissed effectively with prejudice upon findings that no probable cause existed that Holli committed any the charged and supplemented crimes. See exhibit "21" attached for docket record showing the dismissal order, requiring return of all of Holli's seized properties and directing that the USA pay for Holli's commercial flight back from the Federal Medical Center at Carswell Texas to Utah. Holli was finally released from the FMC in April of 2009. Attached hereto as exhibit "22" is the final dismissal order entered in all of the federal criminal cases.

Re Conclusion That Holli's Litigations Activities Are Abusive

(5) *Lundahl v. NAR, Inc.*, 434 F.Supp.2d @ 859 (ID, 2006):

> Because the record now before this Court shows beyond cavil that Lundahl's litigation activities are abusive, the Court finds that Lundahl is a vexatious litigant and her litigation activities are in fact abusive, harmful, and intended to harass and annoy both the parties she names in her lawsuits and the entire judicial system she purports to invoke. Both the number and content of the filings indicate the harassing and frivolous nature of Lundahl's claims. *See De Long,* 912 F.2d at 1148.

Marti asserts that the favorable prosecution of the federal criminal proceedings in Utah from 2006 through 2009, established as a matter of fact and law that Holli did not engage in any of the crimes or abusive litigation tactics for which she was charged by Judge Tallman in his May 24, 2006 Injunction order. (See FPD letter to Marti in April of 2009 [ex. "1" attached to Marti's affidavit], and admitting that the government was prosecuting Holli for the crimes alleged in Tallman's May 24, 2006 Memorandum Decision.). Therefore, not only did TALLMAN lack subject matter jurisdiction over the contempt proceedings at hand, his entire order was a RICO instrument based on complicit fraud of the volunteer intermeddlers. Furthermore, the docket record shows at exhibit "1" attached, PACER doc. no. 20, that the OSC was issued directly to Holli, not Marti, and therefore Marti Should not be bound by the void Idaho injunction order because she had no opportunity to contest the order at the time it was entered. (See doctors letter attached as exhibit "2" to Marti's affidavit establishing that Marti was in a coma in Utah Valley hospital at the time the OSC was issued and the hearing on the proceedings were allegedly conducted.). "A nonparty will not be bound by the injunction,

and, if she has had no opportunity to contest its validity." See Alemite, 42 F.2d at 832 (declaring that a decree which purports to enjoin non- parties "is pro tanto brutum fulmen," and must be ignored).

ARGUMENT

The Idaho Federal Contempt /Injunction Judgment is void ab Initio as to both Plaintiff Marti Lundahl and contemnor Holli Lundahl on the following legal grounds:

(1) The Idaho Federal Contempt Judgment Was Void Because It Was Procured By Complaining Volunteer Intermeddlers Who Were Not Parties To The Idaho Federal Complaint And Therefore Lacked Standing To Seek Contempt Orders Against Either Holli As Party And Marti As A Non-party

In Kerns v. Morgan, 11 Idaho 572, 579, 83 P. 954, 956 (1905) : Idaho has long held that a stranger to the proceeding can not obtain a contempt order) followed in State v. Bettweiser, Docket No. 32083 (Idaho. App. 2006). In Pennoyer, 95 U.S. 714 [24 L.Ed. 565] (1878), the High Court held : **"an OSC must be based on the acts or omissions of the party named in the complaint and as related to the merits of the action."** "Sanctions must be based on the acts or omissions of the represented party or counsel as well as the legal merits of the pleading at bar." Zarsky v. Zurick Mgmt., 829 S.W.2d 398, 400 (Tex. App. Houston [14th Dist.] 1992, no writ) TEX. CIV. PRAC. & REM.CODE ANN.§ 10.005 (Vernon 2002).

In the Idaho federal contempt proceedings, not one party filed a petition to contempt Holli in relation to the subject matter or merits of the complaint before the court. A review of the docket record after the April 7, 2006 OSC issued, reveals no contempt petition was filed by a party to the case. Therefore, the OSC was based upon volunteer intemmeddlers contempt petitions ; all whom had a substantial motive to commit fraud in their petitions because Holli had the statutory right to reopen her lawsuits against all of the volunteer intemmeddlers.

The Federal Rules of Civil Procedure are procedural in nature and do not provide substantive rights. See Rules Enabling Act, 28 U.S.C. § 2072 ("The Supreme Court shall have the power to prescribe general rules of practice and procedure and rules

of evidence" but "[s]uch rules shall not abridge, enlarge or modify any substantive right."). The goal of Rule 11 to deter baseless filings must be effectuated within the limits of the Rules Enabling Act's grant of authority. See Cooter & Gell v. Hartmarx Corp., 496 U.S. 384, 393, 110 S.Ct. 2427, 2454, 11 L.Ed.2d 359 (1990). **The language used in the Advisory Committee Notes indicates that it is the parties who are entitled to sanctions, not non-parties.**

Several federal courts have considered the question of non-parties seeking sanctions in a case in which they were not a named party. In Vesco v. Snedecker, No. 02-2181 (10th Cir., 2003), the 10th circuit offered the following analysis:

> Attorney Livingston filed a motion under Rule 11 of the Federal " Rules of Civil Procedure requesting an "award of sanctions" caused by [the State] Defendants' abusive filings. We hold that Attorney Livingston lacks standing to file a pleading challenging the order denying sanctions entered in his clients case, **as attorney Livingston was not a party to his client's action.** Citing to N.Y. News, Inc. v. Kheel, 972 F.2d 482, 486 (2nd Cir. 1992) (**rejecting non-party's request to intervene seeking to protect judicial process against abuse**); See also Nyer v. Winterthur Int'l, 290 F.3d 456, 459 (1st Cir. 2002) (reciting general rule that non-party may not bring Rule 11 motion for sanctions; collecting cases); Westlake N. Prop. Owners Ass'n v. City of Thousand Oaks, 915 F.2d 1301, 1307 (9th Cir. 1990) (**holding attorney for party cannot bring Rule 11 motion for sanctions as he is not a party to the action.**); accord in Port Drum Co. v. Umphrey, 852 F.2d 148 (5th Cir.1988) . Donaldson, 400 U.S. at 531, 91 S. Ct. At 542 -43. State of Montana v. U.S. E.P.A., 137 F.3d 1135, 1141 (9th Cir. 1998), cert. denied, 525 U.S. 921 (1998); Venegas v. Skaggs, 867 F.2d 527, 529 (9th Cir. 1989), aff'd, 495 U.S. 82, 110 S. Ct. 1679, 109 L.Ed.2d 74 (1990).
>
> The 10th circuit further opined that in N.Y. News, Inc. v. Kheel, 972 F.2d 482, 486 (2nd Cir. 1992), the 2nd Circuit came to a like conclusion as Livingston supra. Quoting:
>
> > " Kheel is an attorney who filed an independent action in federal " court under Rule 11 to attack RICO charges in a complaint alleging his involvement with a conspiracy scheme. Kheel however was not a named party in the RICO complaint. The Kheel court held that Kheel had no right to move for sanctions under Rule 11. **Kheel's remote interest in a streamlined, abuse-free judicial system was not a "significantly protectable interest" that gave Kheel standing to inject himself into litigation making collateral allegations against Kheel.** Even if the non-party asserts the judgment has an adverse effect, the non-party may not interject himself into litigation that does not plead that person as a party. Citing Marino v. Ortiz, 484 U.S. 301, 304 (1988) (Even if a nonparty asserts that the judgment, or some action taken by the court in reaching the judgment, has an adverse effect on him, the nonparty is not allowed to appeal the judgment as the operative pleading does not set forth facts alleging the non-party's injury sufficient to grant him standing.)

Furthermore, the All Writs Act does not provide authority to enter a contempt judgment in a case where standing or jurisdiction is lacking. See **Syngenta Crop**

Protection Inc. v. Henson, 537 US 28 (2002) (Citing Pennsylvania Bureau of Correction v. United States Marshals Service, 474 US 34, 41 (1985) (All Writs Act "does not authorize [federal courts] to issue ad hoc writs when jurisdiction is otherwise lacking.)); **Gullickson v. Southwest Airlines Pilots' Ass'n, 87 F.3d 1176, 1186 (10th Cir.1996)** (rejecting all Writs Act as independent basis for subject matter jurisdiction to enter contempt orders.); Renteria- Gonzales v. I.N.S., 322 F.3d 804, 811 (5th Cir. 2002) ("The All Writs Act does not confer an independent basis for subject matter jurisdiction and thus does not grant the power to enter contempt orders.)

Based on the foregoing, Judge Tallman's contempt order entered into the docket record on May 24, 2006 as PACER docket no. 38 was void as a matter of law for lack of standing in the volunteer meddlers to seek a contempt injunction against Holli. Furthermore, since standing is a component of subject matter jurisdiction, Judge Tallman likewise lacked subject matter jurisdiction to enter the May 24, 2006 contempt/ injunction order against Holli or Marti. See Standard v. Olesen, 74 S. Ct.768 (1954) (**"No sanction can be imposed absent proof of jurisdiction"**.)

(2) The Idaho Federal Court Civil Contempt Judgment Is Void Because It Exceeded The Limited And Defined Article III Authority Granted By The Juridicial Pleading At Hand

It is well established that the complaint before the court is the juridicial means by which the court exercises his article III powers. See Stockyards National Bank of So. Omaha v. Bragg, et al., 67 Utah 60, 246 P. 966 (1925) (**It is fundamental law that the petition filed by plaiintiff is the juridical means of investing a court with jurisdiction of the subject-matter, and that a judgment which is beyond or not supported by the pleading must fall.**). Also see Gladstone Realtors v. Villiage of Bellwood, 441 U.S. 91, 99; 99 S Ct. 1601, 1608; 60 L.Ed.2d 66 (1979) (For a federal court to acquire subject matter jurisdiction, the complaint must set forth the defendant's illegal conduct, must show a palpable injury suffered by plaintiff **which is traceable to the defendant and the challenged conduct alleged in the complaint** ; and must set forth competent legal redress, or the judgment and the proceedings thereon are void.). Followed In Mid-Mile Holding Trust v. Pro Indiviso, Inc., 131 Idaho, 741, 746, 963 P.2d 1178, 1183 (1998) .

In the NAR complant, Holli set forth the illegal conduct of the defendant parties named in that complaint. Holli also alleged the palpable injury she and other plaintiffs

suffered fand traced that palpable injury back to the challenged conduct of the named defendant parties. See Morris v. T.E. Marine Corp., 344 F.3d 439 (5th cir. 2003) (**A denial of due process occurs when the court issues a prejudicial rule outside the four corners of a complaint to the substantial injury of a party.**). See also Manway Construction Co. Inc v. Housing Authority of the City of Hartford, 711 F.2d 501 (2nd Cir. 1983) (Held: The claims against the Bank in the contempt proceeding raised new and unrelated issues not pleaded in the breach of contract complaint between Manway and the Authority. Accordingly, the district court was without subject matter jurisdiction to consider the contempt petition presented by the Authority. Ancillary jurisdiction over the Bank does not hold because **there must have been – a transactional relationship — with the allegations and claims presented in the complaint.** E.g., Stamford Board of Education v. Stamford Education Ass'n, 697 F.2d 70, 72 (2 Cir.1982) . Therefore the Authority's contempt action against the Bank was void and the resulting judgment is ordered vacated.). See also Western Fruit Growers v. Gottfried, 136 F.2d 98, 100 (9th Cir. 1943) ("A judgment, decree or order entered by a court that lacks jurisdiction over the parties or of the subject matter, or that lacks the inherent power to make or enter the particular order involved, is void."). See also RESTATEMENT, JUDGMENTS (SECOND) §1 (1983).

Here, the claims advanced by the volunteer intermeddlers were not transactually related in any manner to the allegations of the NAR complaint . Judge Tallman lacked authority to expand the allegations of Holli Lundahl's complaint beyond it's four corners. Because Judge Tallman did so, the entire NAR prosecution was tainted by Judge Tallman's unlawful usurpation of federal power and the entire action is bull and void and should be declared as such.

(3) Judge Richard Tallman Was Actually Biased And Therefore Committed Structural Error When He Sat On Holli's Idaho Litigations

A Number of federal courts have held that owning stock interests in the company who petitions for relief, mandates immediate disqualification. [6]

6. See Chase Manhattan Bank v. Affiliated Fm Ins. Co., 343 F.3d 120, 123 (2nd Cir. 2003)(Chemical Bank, merged with The Chase Manhattan Bank under merged entity "Chase".

Here, Judge Tallman had a vested interest of $250,000 stock interests in PIMCO who stood to benefit from Judge Tallman's broad injunction barring Holli from suing the petitioning parties. Judge Tallman was therefore actually biased against Hollis interests and therefore barred from sitting on the contempt proceeding.

In addition, Judge Tallman purported to act as an investigating arm for the complaining witnesses accusing Holli of multiple crimes. When Holli complained of Judge Tallman's actions, Judge Tallman deferred the matter to the FBI as shown in exhibit "19 attached hereto and effectively acted as a complaining witness for the future 2006 through 2009 criminal prosecutions brought against Holli. When Judge Tallman acted as an investigator instead of an impartial tribunal, he committed structural error mandating another ground for his immediate removal. [7]

It is beyond dispute that judicial bias is structural error, not susceptible to forfeiture (or harmless error analysis). See Washington v. Recuenco, 548 U.S. 212, 126 S.Ct. 2546, 2551 n. 2, 165 L.Ed.2d 466 (2006) ("due process demands that the judge be disqualified for "an appearance of bias." In re Murchison , 349 U.S. 133, 136, 99 L.Ed. 942 (1955). Here, due process requires nullification of all of Judge Tallmans orders because he committed structural error by sitting on Holli's cases.

After the merger, the judge, his wife, and a family trust purchased between $300,000of stock in the merged entity. At a bench trial, the judge rendered a judgment of $92 million for the Chase in violation of § 455(b)(4). The case was appealed and subsequently remanded for further proceedings. See 196 F.3d at 377. The judge immediately divested himself of the Chase stock and, acting under 28 U.S.C.§ 455(f), thereafter conducted the requisite proceedings on remand. We hold that the divestiture after remand could not cure the past appearance of a disqualifying financial interest at the time of trial, and therefore reverse and remand to a different judge.). See also Am. Isuzu Motors, Inc., et.al. v. Ntsebeza, et al., No. 07- 919, Supreme Court of United States. (May 12, 2008) (**Because the Court lacks a quorum, 28 U.S.C. §1, since a majority of the qualified Justices are own upwards of $15,000 stock interests in the corporate defendants named in the lawsuit, the judgment of the 2nd Circuit is automatically affirmed under 28 U.S.C. §2109.** Khulumani v. Barclay Nat. Bank Ltd., 504 F.3d 254 (2nd Cir., 2007).

7. See In re U.S., 441 F.3d 44 (1st Cir., 2006) (See In re Murchison, 349 U.S. 133, 75 S.Ct. 623, 99 L.Ed. 942 (1955). Just as there is a prohibition against a judge "adjudicating a case where he appears to act as an investigator for the government," Johnson v. Carroll, 369 F.3d 253, 260 (3rd Cir. 2004), there is a prohibition against a judge adjudicating a case where he has become an investigator against the government. We order recusal of the present district judge and direct that the case be assigned on remand to a different judge.). See also Yengo, Matter of, 371 A.2d 41, 72 N.J. 425 (N.J.1977) (Respondent considered himself part of the prosecution structure rather than an impartial judge in re State of New Jersey v. Whitehead. The respondent's disrespect for law extended to the Constitution and cases decided under it by the United States Supreme, all of which prohibited the wearing of two hats while sitting as an impartial arbiter over matters before his court. Removal of Judge Yengo is forthwith ordered.).

(4) Marti Was Given No Notice of The Pending Contempt Proceedings, Therefore They Are Void As Applied to Marti

The record before this court establishes that Marti was in a coma in Utah Valley Medical Center's critical care unit when the OSC in the Idaho federal action was issued and heard. There is no evidence that Judge Tallman served Marti notice of the OSC proceedings he conducted on May 15, 2006 at the hospital or at any other loci for Marti.

The power to sanction is limited by the due process clause of the United States Constitution. See U.S. CONST. Amend. XIV. Jurisdiction is the mandatory component needed to effect imposition of an in personam sanction order. See Standard v. Olesen, 74 S. Ct. 768 (1954) ("No sanction can be imposed under the Constitution absent proof of subject matter and personal jurisdiction." Sanction orders are in personam judgments.). Same In Marks v. Vehlow, 105 Idaho 560, 567, 671 P.2d 473, 480 (1983).

Because Judge Tallman cannot provide proof that he served Marti with an OSC, Judge Tallman's order as to Marti is void ab initio.

CONCLUSION

For all of the foregoing reasons, Plaintiff Marti Lundahl asserts that the Idaho Federal contempt proceedings, and in fact the entire case, was rendered null and void by Judge Tallman's illegal actions taken wholly without Subject matter jurisdiction, without personal jurisdiction, and without any modicum of Due Process. This Court therefore has a duty to decree void and vacate the Idaho federal injunction, all orders entered in that case, and to publish its equity decree far and wide.

Dated: March 10, 2013

Marti Lundahl

Certificate of Service

The undersigned certifies that she will electronically served opposing counsel with the foregoing document and attached 23 exhibits on March 14, 2013 to the following email address:

Richard Vasquez
Law Offices of Snow, Christainsen and Martineau
10 Exchange Place Eleventh Floor
Salt Lake City, Utah 84111
email address : rv@scmlaw.com

Marti Lundahl

1

RONALD F. PRICE - 5535
PETERS SCOFIELD PRICE
A Professional Corporation
340 Broadway Centre
111 East Broadway
Salt Lake City, Utah 84111
Telephone: (801) 322-2002
Facsimile: (801) 322-2003

Attorneys for Plaintiff/Counterclaim Defendants

IN THE THIRD JUDICIAL DISTRICT COURT
SALT LAKE COUNTY, STATE OF UTAH

N.A.R., INC.,

Plaintiff,

vs.

KELLI LUNDAHL, ET AL.,

Defendants.

HOLLI LUNDAHL,

Counterclaim/Plaintiff,

vs.

MARK T. OLSON; OLSON ASSOCIATES, P.C.; ANTHONY C. TIDWELL, D.D.S., OLYMPUS VIEW DENTAL AND N.A.R.,

Counterclaim/Defendants.

ORDER AWARDING ATTORNEYS' FEES AND DOUBLE COSTS AGAINST HOLLI LUNDAHL, AND JUDGEMENT AGAINST HOLLI LUNDAHL FOR ATTORNEYS' FEES AND DOUBLE COSTS

Civil No. 020201658

Judge Anthony Quinn

Plaintiff and counterclaim defendants' (the "Moving Parties") *Motion For Award Of Attorneys' Fees And Double Costs Against Holli Lundahl, And For Other Relief* (the "Motion")

came before the Court for hearing at 8:30 am on Thursday, 19 February 2004. Ronald F. Price of the law firm PETERS SCOFIELD PRICE *A Professional Corporation* appeared on behalf of the Moving Parties. Additionally, counterclaim defendant Mark T. Olson was present. No other persons or parties were present. Thus, Holli Lundahl did not appear. Additionally, defendants Kelli Lundahl and John Behle did not appear and were not represented by counsel.

The Court, having reviewed the Motion, the supporting memorandum and the affidavit of Ronald F. Price filed in support of the Motion, having determined that Holli Lundahl was properly served with the Motion, the supporting memorandum and the Price affidavit, having determined that Holli Lundahl was properly served with notice of the hearing on the Motion, being duly advised in the premises and upon good cause showing, hereby enters the following order and judgment with respect to the Motion:

1. Pursuant to the ruling of the Utah Supreme Court in the case of *Lundahl v. Quinn*, 67 P.3d 1000 (Utah 2003) that the Moving Parties are entitled to recover from Holli Lundahl the amount of attorneys' fees and double costs incurred by the Moving Parties in connection with responding to, and as a result of, the *Petition for Extra Ordinary Writ Directed to Judge Anthony Quinn of the Third Judicial District Court Pursuant to Rule 65B* (the "Petition") filed by Holli Lundahl in connection with this matter, and pursuant to the Utah Supreme Court's instructions in the *Lundahl* opinion that this Court determine the amount of those attorneys' fees and double costs to award and to enter such an award against Holli Lundahl and in favor of the Moving Parties, the Court hereby **ORDERS** that Holli Lundahl shall pay to the Moving Parties the sum of $4707.50 for attorneys' fees which the Moving Parties incurred in connection with responding

to the Petition, and the additional sum of $598.70 for double costs which the Moving Parties incurred in connection with responding to the Petition. This order shall constitute a judgment against Holli Lundahl.

DONE this 17 day of March, 2004.

BY THE COURT

ANTHONY B. QUINN
DISTRICT COURT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on the 23rd day of February 2004, and on this 5th day of March, 2004, a true and correct copy of the foregoing ORDER AWARDING ATTORNEYS' FEES AND DOUBLE COSTS AGAINST HOLLI LUNDAHL, AND JUDGEMENT AGAINST HOLLI LUNDAHL FOR ATTORNEYS' FEES AND DOUBLE COSTS was served in the manner indicated to the following:

Gregory M. Constantino
Constantino Law Office, P.C.
68 South Main Street, Suite #800
Salt Lake City, Utah 84101
Facsimile No. (801) 530-1333

X U.S. Mail
___ Federal Express
___ Hand Delivery
___ Facsimile

Holli Lundahl
200 East Center Street
Orem, Utah 84057

X U.S. Mail
___ Federal Express
___ Hand Delivery

2

05/03/2006 10:49:00 RC006 CLERKS OFFICE ONEIDA COUNTY

INSTRUMENTS RECORDED

Instrument Number	Date	Time	Transaction Type / Description	#Pages	Fee Amt	Charge	Delivered To	On
138395	12/15/2005	04:20p	195 - LIEN 14 16S 36E T-3779 14 16S 36E T-3779 NAR, INC. (LIENOR)	5	$15.00		HOLLI LUNDAHL 10621 S. OLD HWY 191 MALAD ID 83252	
138962	04/27/2006	03:20p	056 - DEED, WARRANTY, SPECIAL 14 16S 36E T-3779 14 16S 36E T-3779 GRANTOR: SECURITY NATIONAL MORTGAGE COMPANY GRANTEE: KEDDINGTON, JAMES LUNDAHL, HOLLI MARCHANT, MARIE	3	$9.00		NORTHERN TITLE COMPANY MALAD ID 83252	

Instrument Count: 2

**********END OF REPORT**********

State of Idaho, County of Oneida } ss.

I, Shirlee Blaisdell, Clerk of the District Court, Ex-Officio, Auditor and Recorder in and for the said County and State, hereby certify that the above and foregoing is a full, true and correct copy of the original as the same appears of record or on file in my office. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at Malad, Idaho this 3rd day of May 2006

By Shirlee Blaisdell
Clerk District Court Ex-Officio

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State of Idaho

Office of the Secretary of State

CERTIFICATE OF AUTHORITY

OF

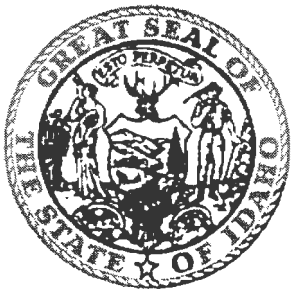
N.A.R., INC.

File Number C 149341

I, BEN YSURSA, Secretary of State of the State of Idaho, hereby certify that an Application for Certificate of Authority, duly executed pursuant to the provisions of the Idaho Business Corporation Act, has been received in this office and is found to conform to law.

ACCORDINGLY and by virtue of the authority vested in me by law, I issue this Certificate of Authority to transact business in this State and attach hereto a duplicate of the application for such certificate.

Dated: 23 May 2003



Ben Ysursa

SECRETARY OF STATE

By _____

"3"

202

APPLICATION FOR CERTIFICATE OF AUTHORITY (For Profit)

(Instructions on Back of Application)

2003 MAY 23 AM 8:22

SECRETARY OF STATE
STATE OF IDAHO

The undersigned Corporation applies for a Certificate of Authority and states as follows:

1. The name of the corporation is:
   N.A.R, INC.
2. The name which it shall use in Idaho is: N.A.R., INC.
3. It is incorporated under the laws of: Utah
4. Its date of incorporation is: 9/93 10/14/1995
5. The address of its principal office is:
   10 W. Broadway Ste 610 Salt Lake City Ut. 84101
6. The address to which correspondence should be addressed, if different from item b, is:
   Same as #5 address
7. The street address of its registered office in Idaho is: 5527 Kendall St. Boise, ID 83706
   and its registered agent in Idaho at that address is: Paracorp, Incorporated
8. The names and respective business addresses of its directors and officers are:

Name	Office	Address
David Saxton	President	270 Bogey Cr. N. Salt Lake Ut. 84054
David Saxton	Vice-President	270 Bogey Cr. N. Salt Lake Ut. 84054
Jolene Judd	Secretary	13496 S. 300 E. Draper Ut 84020
David Saxton	Treasurer	270 Bogey Cr. N. Salt Lake Ut. 84054

Dated: 3/14/03

Signature: David J. Saxton

Typed Name: DAVID J. SAXTON

Capacity: PRESIDENT

Customer Acct # :
(if using pre-paid account)

Secretary of State use only

g:\corp\forms\corp forms\application\authority_profit.pm6 Revised 07/2002

IDAHO SECRETARY OF STATE
05/23/2003 05:00
CK: 57946 CT: 178275 BH: 682489
1 @ 100.00 = 100.00 AUTH PRO # 2
1 @ 28.00 = 28.00 CORP SUR # 3

C149341

Utah Department of Commerce
Division of Corporations & Commercial Code
160 East 300 South, 2nd Floor, S.M. Box 146705
Salt Lake City, UT 84114-6705
Service Center: (801) 530-4849
Toll Free: (877) 526-3994 Utah Residents
Fax: (801) 530-6438
Web Site: http://www.commerce.utah.gov

2003 MAY 23 AM 8:22
SECRETARY OF STATE
STATE OF IDAHO

May 8, 2003

CERTIFICATE OF EXISTENCE

Registration Number: 1280211-0130
Business Name: N.A.R., INC.
Registered Date: OCTOBER 14, 1995
Entity Type: DOMESTIC COLLECTION AGENCY
Current Status: ACTIVE

The Division of Corporations and Commercial Code of the State of Utah, custodian of the records of business registrations, certifies that the business entity on this certificate is authorized to transact business and was duly registered under the laws of the State of Utah.

Kathy Berg
Director
Division of Corporations and Commercial Code

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Holli Lundahl
200 E. Center Street
Orem, Utah 84057
Attorney Pro Se

UNITED STATES BANKRUPTCY COURT FOR THE
CENTRAL DISTRICT OF UTAH

IN RE HOLLI LUNDAHL	:	BANKRUPTCY NO. 03-21660
		TRUSTEE ANDRE DIAZ
SSN [redacted]	:	
		AMENDED Chapter 13 plan
. Debtor	:	

THE DEBTOR PROPOSES THE FOLLOWING AMENDED CHAPTER 13 PLAN:

1. Pursuant to court order dated June 11, 2003, the Debtor shall submit to the trustee future earnings in the amount of $50 per month for the period of no less than 60 months, and until all allowed claims are paid as provided for in the Plan. If necessary, all payments made to the Trustee prior to confirmation shall be contributed as a lump sum contribution. The Trustee is ordered to hold the debtor's plan payments in trust until further order of the court.

2. From the payments so received, the Trustee shall make distributions to creditors holdings allowed claims in the following order and on a pro rata basis for each claim within the class:

A. CLASS A. Adequate protection payments ordered by the Court as set forth in paragraph 1 supra.

B. CLASS B. Allowed priority administrative claims under 11 USC section 507(a)(1), including attorneys fees and costs.

C. CLASS C. Allowed secured claims of the following creditors together with interest as indicated below:

NONE

Pursuant to 11 USC section 506(b) and 1325(a)(5), the interest necessary to provide these creditors their allowed claims shall be paid from the petition date for each creditor whose collateral value exceeds the claim amount; otherwise, interest shall be paid from the date the confirmation order is entered by the Clerk.

D. CLASS D. Allowed priority unsecured claims under section 11 USC section 507(a)(2)-(8) shall be paid 100% with no interest.

E. CLASS E. Allowed nonpriority unsecured claims, which shall include the allowed claims of all creditors not otherwise classified in this Plan, shall be paid on allowed unsecured claims at the rate of 6% per annum from the date the confirmation order is entered.

F. Additional provisions pursuant to 11 USC section 1322(b): NONE

3. The trustee is entitled to a fee under section 586(e).

4. Unless otherwise ordered by the Court, all property of the estate shall vest in in the debtor upon Confirmation.

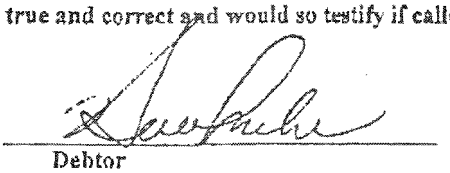
5. In accordance with 11 USC section 1328(a), upon completion of the Plan, The Debtor shall be discharged of all debts provided for by the Plan or disallowed under section 11 USC section 502.

6. This Plan provides that creditors will receive 100% of allowed or adjudicated Claims, thus providing creditors with a greater return under this plan then the creditors Would receive if the estate of the Debtor was liquidated under Chapter 7.

7. During the coarse of these bankruptcy proceedings, the Debtor will be prosecuting numerous adversary proceedings on disputed claims. Further the Debtor will be prosecuting all pending lawsuits listed as assets to debtors estate in these bankruptcy proceedings and will further object to the lift of any stay order involving a forfeiture of funds belonging to the debtor or otherwise included as grounds under the stay provision of the bankruptcy code.

VERIFICATION

The undersigned does hereby verify that to the best of her knowledge and belief, the amounts and values set forth above are true and correct and would so testify if called upon by the court to do so.



Debtor

5

2:04CV88
#5

HOLLI LUNDAHL
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UNITED STATES BANKRUPTCY COURT

CENTRAL DISTRICT OF UTAH

In re	:	BANKRUPTCY CASE NO. 03-21660
HOLLI LUNDAHL	:	(Chapter 13)
	:	ADVERSARY PROCEEDING NO. 03 P - 02402
HOLLI LUNDAHL, Plaintiff,	:	AMENDED NOTICE OF REMOVAL OF THE FOLLOWING CASES:
v.	:	UTAH STATE CASE NO. 010902105 AS TO DOUG MURDOCK ONLY;
	:	CALIFORNIA STATE CASE NO. 219124 FORMERLY CASE NO. 214606;
DOUG MURDOCK, ELI LILLY AND COMPANY, INC., ADVANCED CARDIOVASCULAR SYSTEMS,INC. MERRELIN BLAND, JOYCE JOHNSON PATRICIA WAYMAN, BEVERLY GILSDORF, CONNIE HARRISON, EVE CHAPLIN, GTE CORPORATION NOW VERIZON COMMUNICATIONS, PACIFIC MUTUAL INSURANCE CO., KAREN KADYK AND COUNTY OF RIVERSIDE, DIRECTOR OF THE STATE BOARD OF CHIROPRACTIC EXAMINERS VIVIAN DAVIS IN OFFICIAL CAPACITY AND DOES OFFICERS IN THEIR OFFICIAL CAPACITIES AND SAN DIEGO ADMINISTRATIVE LAW JUDGE JAMES AHLER	:	UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA CASE NO. CV94-021 RJT FORMERLY CASE NO. CV94-045GLT; CALIFORNIA STATE CASE NO. SC0388381, AND; SAN DIEGO ADMINISTRATIVE CASE NO. L-9505197.
Defendants	:	

"5"

Plaintiff Holli Lundahl hereby files this amended notice of removal and removes the following state and federal cases having common claims or representation: (1) Utah state case no. 010902105 as to defendant Doug Murdock only, (2) California state case no. 219124 formerly state case no. 214606; (3) United States District Court Central District of California case no 94-021 RJT formerly case no. CV 94-045GLT, (4) California State case no. SC0388381, and; (5) San Diego Administrative case no. L-9505197 to the United States Bankruptcy Court for the Central District of Utah pursuant to 28 USC section 1452 and bankruptcy rule 9027. All cases above stated were subject to the automatic stay prior to removal. The removed claims are non-core, unliquidated, contingent and non-final proceedings stating personal injury tort, federal civil rights and RICO claims, and all of the proceedings bear a jury demand.

Plaintiff Holli Lundahl DOES NOT CONSENT to the bankruptcy judge hearing these non-core proceedings, entering final orders or conducting jury proceedings on the foregoing removed claims. Furthermore because of the nature of plaintiffs claims, all of these claims must be transferred to the United States District Court for further disposition pursuant to 28 USC sections 157(b)(5), (d) & (e).

Due to the volume of the papers in the cases, plaintiff attaches hereto the relevant interlocutory rulings and other court process conclusive of the court entering a final competent order in the removed cases. The relevant process is attached in chronological order:

CALIFORNIA STATE CASE NO. 219124 FORMERLY CASE NO. 214606

1. Exhibit "1": Caption page in California state case no. 219124 formerly 214606 showing the state causes of action sued upon to include: Defamation, Intentional Interference with Contract, Intentional interference with Prospective Economic Advantage, Breach

of Contract, Common Counts, [Insurance Bad Faith], Fiduciary Fraud. Following is the defamatory communications published and authored by by Eli Lilly;

2. Exhibit "2": December 9, 1992 Stipulation and Order signed by the state judge staying the civil action against Eli Lilly until further notice based upon the pendency of the criminal action.

UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA CASE NO. CV94-021RJT FORMERLY CASE NO. CV94-045GLT

3. Exhibit "3": The criminal action in favor of Lundahl on July 23, 1993. On January 13, 1994 LUNDAHL filed a federal action against Eli Lilly suing for civil rights, federal RICO and anti trust violations in addition to the state law claims set forth in exhibit "1" attached. LUNDAHL sought supplemental jurisdiction over her state law claims under section 1367(a). LUNDAHL's federal case was assigned the honorable Gary L. Taylor. On March 1, 1994, LILLY filed a motion to dismiss claiming that plaintiff's state law claims were time barred. On April 25, 1994, Judge Gary Taylor granted in part and denied in part LILLY's motion to dismiss. The federal court found that none of plaintiff's claims were time barred and therefore denied the motion to dismiss on this ground. The federal court granted Lilly's motion to dismiss with leave to amend ordering LUNDAHL to plead her fiduciary fraud claim with more particularity. Exhibit "3" attached is a true and correct copy of the court's written order issued on April 25, 1994.

4. Exhibit "4": The May 19, 1994 default entered against defendant Eve Chaplin and supporting documentation.

5. Exhibit "5": Gary Taylor's ruling dismissing the corporate entities without prejudice for lack of standing as not in existence at the times alleged in the complaint.

6. Exhibit "6": On August 22, 1994 plaintiffs submitted and filed a status report in support of a status conference. Attached thereto was all of the registered state court criminal process supporting the federal complaint. Exhibit "6" attached hereto is a true and correct certified copy of the top page to the status report and supporting certified state court documents.

7. Exhibit "7": On November 3, 1994, the state court in case no. 219124 entered a permanent stay order on the state case until final resolution of federal case number 94-045GLT. Exhibit "7" is a certified copy of the stay order.

8. Exhibit "8": On October 17, 1994 the federal judge Gary Taylor entered an order finding that LUNDAHL was the assignee to all health care claims billed to Eli Lilly's health plan, decreeing that LILLY would not be permitted to retry any matters which were or could have been subject matter of the state criminal case, and summarily adjudicated LUNDAHL's contract, bad faith, fiduciary fraud, false imprisonment and malicious prosecution and defamation claims in LUNDAHL's favor. The court left Lundahl's intentional interference with prospective economic advantage and anti trust claims for later disposition. See a true and correct certified copy of this order is attached hereto as exhibit "8".

9. Exhibit "9": The action was subsequently transferred to the federal judge Robert Timlin just appointed to the bench. Robert Timlin was a state appellate justice sitting on Lundahl's underlying state criminal action when Lundahl filed a writ of habeus corpus on the grounds of Brady violations. Judge Robert Timlin also owned upwards of $240,000 in stock interests in the defendants companies appearing before his court. Seven (7) months after the case was transferred to the new and conflicted federal court, LILLY/ACS filed a counterclaim seeking to retry the criminal case in the civil forum in violation of Judge Gary Taylor's October 17, 1994 order. Attached hereto as exhibit "9" is and true and correct copy of the face page of

the Counterclaim filed into the court record on April 23, 1995. NO SUMMONS was ever issued on the counterclaim which was in fact a cross complaint filed in violation of Gary Taylor's order and FRCP rule 13.

10. Exhibit "10": During discovery issued on May 12, 1995, the County of Riverside and Kadyk attested under oath that the criminal case was dismissed because LILLY's witnesses lacked creditability and the county felt it would not prevail on the criminal charges before a jury. Exhibit "10" attached is a true and correct copy of this discovery response.

11. Exhibit "11": Discovery documents were obtained from the DOL during LUNDAHL's criminal trial and pointed to vested interests and insurers of Eli LILLY to include GTE, Equitable Life Assurance Society of the United States, Hospital Corporation of America, and CNA. Attached hereto are true and correct copies of these discovery responses registered in the federal action. Later investigation revealed that the Honorable Robert J. Timlin had vested stock interests in GTE. Lilly affiliates and CNA.

12. Exhibit "12": On September 4, 1996 in violation of the law of the case doctrine, LILLY filed another motion to dismiss or in the alternative a summary judgment motion re-arguing matters previously determined by the Honorable Gary taylor on April 25, 1994 and October 17, 1994 in Lundahl's favor and overruled these orders. TIMLIN found that LUDNAHL was not an assignee of the ACS Health plan, that LUNDAHL's claims were time barred and that the only claim that survived summary judgment was LUNDAHL malicious prosecution claim. See exhibit "12" attached for a true and correct copy of this order.

13. Exhibit "13": On June 30, 1997 because the County of Riverside and KADYK testified through deposition testimony that the state criminal case was dismissed because LILLY's employee's statements to Riverside County and Kadyk lacked credibility [which was the same as saying the statements and reports were false] and therefore the county determined that they would not prevail on a

criminal trial, Judge Robert did not reach the probable cause issue on the malicious prosecution charge and instead found that the criminal action was not favorably terminated to LUDNAHL because it was dismissed by the people before it was tendered to a jury for a jury verdict. See Robert Timlin's ruling entered on June 30, 1997 as exhibit "13" attached hereto.

14. Exhibit "14": On May 8, 1998, Judge Timlin dismissed LILLY's first amended counterclaim against Holli Lundahl with prejudice. See certified copy of this interlocutory order as exhibit "14" attached hereto.

15. Exhibit "15": On October 6, 1998, Judge Timlin entered a default judgment against Holli Lundahl on the first amended counterclaim dismissed against Holli Lundahl with prejudice on May 8, 1998 and against third persons not named in the counterclaim, not served process and not made a party to the action, under an ex parte and unlitigated theory of alter ego's to Holli Lundahl. See exhibit "15" attached for default judgment.

16. Exhibit "16": LUNDAHL appealed these judgments believing them to be final. On August 26, 2002 during the pendency of a 2002 bankruptcy case filed by Holli Lundahl the 9th circuit entered an order finding that no final judgment had been entered because Judge Timlin had not ruled that the underlying action was finally disposed as to all parties and claims, had not terminated the litigation with prejudice and had not determined who won the action. The 9th circuit dismissed the appeal for lack of subject matter jurisdiction. See exhibit "16" attached for 9th circuit order. LUNDAHL prepared a proposed final order on October 21, 2002 for purposes of appeal and pursuant to the appellate mandate. Judge Timlin rejected LUNDAHL's final order and forwarded the order back to LUNDAHL on Ocotber 24, 2002 due to his actual bias conflicts with the case. On January 31, 2003, LUNDAHL filed this bankruptcy case which stayed the California federal proceedings in light of the counterclaims being pursued

against LUNDAHL. The federal and state cases were removed to the bankruptcy court based upon an extension granted by Bankruptcy Judge Judith Boulden after an erroneous dismissal of Lundahl's bankruptcy case in June of 2003.

SAN DIEGO OFFICE OF ADMINISTRATIVE HEARINGS CASE NO. L-9505197

17. Exhibit "18": To obstruct the California federal action, LILLY contacted LUNDAHL's licensing Board in March of 1995 to confirm prior disciplinary action taken against LUNDAHL. On March 11, 1995, the board indicated that LUNDAHL had had a current and clear license since it's issuance. See exhibit "18" attached for letter.

18. On July 15, 1995 the San Diego Office of Administrative Hearings pursuant to LILLY's request opened a time barred, pre-empted and estopped administrative action charging LUNDAHL with the same criminal allegations arising from December 1990 through June of 1991 as San Diego Office of Administrative hearings case no. L-9505197. At the outset, the action was commenced out of the subject matter jurisdiction of this administrative office pursuant to the Government Code section 11508(a) as LUNDAHL only had a co-owned interstate office located in Los Angeles California and was a residence of the state of Utah, County of Utah. Lundahl timely filed a notice of defense which included claims that the San Deigo Administrative Offices lacked subject matter and personal jurisdiction over LUNDAHL and the action was further barred by affirmative defenses of res judicata, collateral estoppel, judicial estoppel, accord, satisfaction, release, waiver, unclean hands and equitable estoppel.

19. Exhibit "19": On September 4, 1995, after the San Diego Office of Administrative Hearing sent Lundahl a subpoena to appear in San Diego County for the Administrative Hearing by criminally using the contempt powers of the state through the issuance of a subpeona ordering LUNDAHL's appearance out of jurisdiction, LUNDAHL filed a statutory pre-emption against the San Diego Law judge

assigned to hear the case re-iterating the office's lack of subject matter jurisdiction. See exhibit "19" attached for pre-emptory challenge.

20. Exhibit "20": On September 8, 1995 LUNDAHL supplemented the pre-emptory challenge in exhibit "19" supra when she learned that AHLER was formerly of counsel to LILLY's attorney's law offices representing LILLY in the above stated federal action and that AHLER owned upwards of $210,000 in stock interests in LILLY, LILLY affiliates and LILLY's insurer also liable for any judgment LUNDAHL obtained against LILLY in the above stated California federal case.

21. Exhibit "21": Two San Diego police officers forcefully seized LUNDAHL from her Los Angeles office and took LUNDAHL to the out of jurisdiction administrative action under the state's contempt power. LUNDAHL argued the jurisdictional and other affirmative defenses which AHLER set off until it was time for LUNDAHL to present her case in chief. LUDNAHL continued to be forcefully detained for appearance day to day until September 27, 1995 when AHLER conspired with LILLY, CNA, GTE and PACIFIC LIFE, the latter three LILLY's insurers, to expire LUNDAHL as a party opponent and steal LUNDAHL's evidence, and when that failed, to falsely charge LUNDAHL with felony assault so that LUNDAHL's defense would be defaulted to the state. These persons procured LUNDAHL's false imprisonment in federal jail for the most part of 8 months while AHLER continued to prosecute the administrative action without LUNDAHL's presence and representation, defaulted LUNDAHL on proceedings that were totally lacking in jurisdiction and barred by numermous affirmative defenses and entered a decision on October 6, 1995 revoking LUNDAHL's license and finding LUNDAHL guilty of the same fraud crimes adjudicated in Lundahl's favor in the state criminal forum on July 23, 1993. Moreover, LUNDAHL was never served notice of the decision nor was she aware that the proceedings were continuing without her representation while she continued to be detained in federal jail. On January 17,

1996 LUNDAHL was released from jail. On January 31, 1996 LUNDAHL learned of the administrative decision when LILLY filed the decision in the above stated federal action in support of a motion to dismiss under the doctrine of collateral estoppel. On February 5, 1996 LUNDAHL filed an administrative appeal by way of a verified ex parte application for a de facto writ of mandamus [California requires that the mandamus petition be filed within 30 days of the entry of the decision] to challenge the void decision. See exhibit "21" for LUNDAHLS' verified application setting forth the defenses.

22. Exhibit "22": On January 23, 1998, the California Superior Court sitting in its appellate capacity denied the de facto petition for writ of mandamus claiming it was untimely filed. The administrative judgment was void as a matter of law. The appellate judgment was also void as a matter of law as giving credit to a void administrative judgment.

UTAH STATE CASE NO. 010902105

23. Exhibit "23": In November of 1999, Plaintiff and her sister were involved in a car accident. Murdock fraudulently claimed to have treated plaintiff's sister when no such treatment was rendered. Plaintiff's sister assigned the false debt to plaintiff who then brought an action against Murdock for RICE/RICO and unlawful debt collection practices. Murdock did not appear and was defaulted. The Law offices of Snell and Wilner were then retained by Murdock and filed an unserved motion to vacate the default and to dismiss the action fraudulently arguing that plaintiff sued this doctor under the Utah Malpractice act when no such cause of action was stated. The trial court dismissed the action based upon the fraud committed by this law office. See exhibit "23" attached for copy of the void dismissal order. This same law office is now representing LILLY in the big case above stated and has committed similar void acts.

REMOVED CONTEMPT CASE INITATED BY LILLY AND GTE

24. Exhibit "24": During the prosecution of California federal case no. CV94-045 changed to case no. 94-021, LILLY's counsel fabricated a false subpoena and thereafter charged LUNDAHL with having fabricated the false subpoena and committing forgery. In March of 1995, TIMLIN certified a criminal contempt order against LUNDAHL based upon unsupported facts as spued by LILLY's attorneys. Lundahl demanded a jury trial under 18 USC section 402 and under BRADY demanded that the charging documents be produced. GTE was a vested interest and insurer to LILLY and the alleged recipient of the false and forged federal subpoena. GTE sent the false federal subpoena to the court under seal along with a certified letter purporting to carry the false federal subpoena. GTE then wrote declarations under seal claiming that the false federal subpoena was processed by GTE's legal department on February 3, 1995 and sent to GTE's legal dept by LUNDAHL by certified mail bearing certified receipt no. Z 174 324 396. See exhibit "24" attached.

25. Exhibit "25": The Subpeona sent to GTE by LUNDAHL via the certified mailing claimed by GTE was a state subpoena and furthermore the document was not received by GTE until February 6, 1995, three days after GTE processed the false federal subpeona. See exhibit "25" attached hereto for state process served on GTE.

26. Exhibit "26": This is the false federal subpoena bearing GTE's legal dept's stamp date of February 3, 1995 on it's face.

27. Exhibit "27": GTE claimed that the records were sent to the court under seal in violation of BRADY because of the privacy act.

28. Exhibit "28": The process was returned to GTE and never claimed by plaintiff because the process was not issued by plaintiff. See exhibit "28" for returned process.

Dated: September 9, 2003

Holli Lundahl
Attorney Pro Se

CERTIFICATE OF SERVICE

The undersigned certifies that she gave notice of this removal to the following attorneys represented in the following pleadings:

The Law offices of
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Thompson & Colgate
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Attorney General for the state
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1350 Front St.
San Diego, CA 92101

Utah Attorney General's Office
160 East 300 South
SLC, Utah 84114

Holli Lundahl

Exhibits/ Attachments to this document have **not** been scanned.

Please see the case file.

6

, REFER

UNITED STATES DISTRICT COURT for the CENTRAL DISTRICT OF CALIFORNIA
(Eastern Division - Riverside)
CIVIL DOCKET FOR CASE #: 5:94-cv-00021-RT -CT

Holli Lundahl, et al v. Eli Lilly & Company, et al
Assigned to: Judge Robert J. Timlin
Referred to: Magistrate Judge Carolyn Turchin
Demand: $0
Case in other court: Santa Ana, 8:94-cv-00045
Cause: 42:1983 Civil Rights Act

Date Filed:
Date Terminated: 10/06/1998
Jury Demand: Both
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

Plaintiff

Holli Lundahl
D C

represented by **Holli Lundahl**
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PRO SE

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Plaintiff

Donald R Johnson
D O
TERMINATED: 09/04/1996

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Defendant

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ATTORNEY TO BE NOTICED

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Lori Pivo

Defendant

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Defendant

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Defendant

Patricia Wayman

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Defendant

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Defendant

Riverside County of

represented by **J E Holmes , III**
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ATTORNEY TO BE NOTICED

Defendant

Does

(See above for address)
TERMINATED: 07/21/1994
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Counter Defendant

Lundahl Chiropractic Inc represented by **Jerry L Steering**
(See above for address)
TERMINATED: 07/21/1994
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Counter Defendant

Roes
1-200

Date Filed	#	Docket Text
01/13/1994	1	COMPLAINT (Summons(es) issued) (referred to Discovery Ronald W. Rose) (ruiz) (Entered: 01/19/1994)
01/13/1994	2	DEMAND for jury trial by plaintiff Holli Lundahl, plaintiff Donald R Johnson, plaintiff Mission Trail Medica, plaintiff - Mission Trail Medica, plaintiff Lundahl Chiropractic (ruiz) (Entered: 01/19/1994)
03/01/1994	3	NOTICE OF MOTION AND MOTION by defendant Eli Lilly & Company, defendant Advanced Cardiovascu, defendant Connie Elliano, defendant Connie Harrison, defendant Joyce - Johnson, defendant Patricia Wayman, dft Beverly Gilsdore to dismiss Mem of p/a in suppt thereof ; motion hearing set for 10:00 3/28/94 (ruiz) (Entered: 03/02/1994)
03/11/1994	4	RETURN OF SUMMONS and proof of service executed upon defendant Joyce - Johnson on 2/8/94 (krpa) (Entered: 03/14/1994)
03/11/1994	5	RETURN OF SUMMONS and proof of service executed upon defendant Eli Lilly & Company on 2/9/94 (krpa) (Entered: 03/14/1994)
03/11/1994	6	RETURN OF SUMMONS and proof of service executed upon defendant Beverly Gilsdorf on 2/9/94 (krpa) (Entered: 03/14/1994)
03/11/1994	7	RETURN OF SUMMONS and proof of service executed upon defendant Eve Chaplin on 2/10/94 (krpa) (Entered: 03/14/1994)
03/11/1994	8	RETURN OF SUMMONS and proof of service executed upon defendant Advanced Cardiovascu on 2/10/94 (krpa) (Entered: 03/14/1994)
03/11/1994	9	RETURN OF SUMMONS and proof of service executed upon defendant Riverside Cty of on 2/10/94 (krpa) (Entered: 03/14/1994)
03/11/1994	10	RETURN OF SUMMONS and proof of service executed upon defendant Karen Kadyk on 2/10/94 (krpa) (Entered: 03/14/1994)
03/11/1994	11	RETURN OF SUMMONS and proof of service executed upon defendant Patricia Wayman on 2/16/94 (krpa) (Entered: 03/14/1994)
03/11/1994	12	RETURN OF SUMMONS and proof of service executed upon defendant Connie Elliano on 2/10/94 (krpa) (Entered: 03/14/1994)

03/11/1994	13	RETURN OF SUMMONS and proof of service executed upon defendant Connie Harrison on 2/9/94 (krpa) (Entered: 03/14/1994)
03/11/1994	14	RETURN OF SUMMONS and proof of service executed upon defendant Merrelin Bland on 2/16/94 (krpa) (Entered: 03/14/1994)
03/22/1994	15	EX PARTE APPLICATION by plaintiff Holli Lundahl, plaintiff Donald R Johnson, plaintiff Mission Trail Medica, plaintiff - Mission Trail Medica, plaintiff Lundahl Chiropractic to continue hrg on dfts' mtn to dism ; LDGD ORD (krpa) (Entered: 03/28/1994)
03/22/1994	16	MEMORANDUM of P/A by plaintiff Holli Lundahl, plaintiff Donald R Johnson, plaintiff Mission Trail Medica, plaintiff - Trail Medica, plaintiff Lundahl Chiropractic in support of motion to continue hrg on dfts' mtn to dism [15-1] (krpa) (Entered: 03/28/1994)
03/22/1994	17	DECLARATION of Jerry L Steering by plaintiff Holli Lundahl, plaintiff Donald R Johnson, plaintiff Mission Trail Medica, plaintiff - Mission Trail Medica, plaintiff Lundahl Chiropractic in suppt of ex parte app to cont hrg dt on dfts' mtn to dism & re ntc of ex parte app [15-1] (krpa) (Entered: 03/28/1994)
03/23/1994	18	ORDER by Judge Gary L. Taylor granting motion to continue hrg on dfts' mtn to dism [15-1] ORDalso that pltfs shall have until 4-8-94 to file their resp to dft's mtn; also dfts shall have until 4-15-94 to file their rply papers to the resp papers fld by pltfs in this action(cc: all counsel) (krpa) (Entered: 03/28/1994)
03/31/1994	19	ANSWER by defendant Karen Kadyk, defendant Riverside Cty of to Cmplt [1-1] (ruiz) (Entered: 04/04/1994)
04/11/1994	20	NOTICE of ldgng of separately attached exhibits in opposition to dfts mtn to dismiss by plaintiff Holli Lundahl, plaintiff Donald R Johnson, plaintiff Mission Trail Medica, plaintiff - Mission Trail Medica, plaintiff Lundahl Chiropractic (ruiz) (Entered: 04/13/1994)
04/11/1994	21	DECLARATION of Holli Lundahl D.C. in opposition to dfts mtn to dismiss under FRCP 12(B)(6) by plaintiff Holli Lundahl, plaintiff Donald R Johnson, plaintiff Mission Trail Medica, plaintiff - Mission Trail Medica, plaintiff Lundahl Chiropractic (ruiz) (Entered: 04/13/1994)
04/11/1994	22	MEMORANDUM by plaintiff Holli Lundahl, plaintiff Donald R Johnson, plaintiff Mission Trail Medica, plaintiff - Mission Trail Medica, plaintiff Lundahl Chiropractic in opposition to dfts Eli Lilly & Co, Advanced Cardiovascular Systems, Inc Connie Elliano, Connie Harrison, Marilyn Bland, Joyce Johnson, Beverly Gilsdorf & Patricia Wayman's mtn to dismiss under FRCP 12(b)(6) (ruiz) (Entered: 04/13/1994)
04/11/1994	23	DECLARATION of Jerry L. Steering in opposition to dfts mtn to dism FRCp 12(b)(6) by plaintiff Holli Lundahl, plaintiff Donald R Johnson, plaintiff Mission Trail Medica, plaintiff - Mission Trail Medica, plaintiff Lundahl Chiropractic (ruiz) (Entered: 04/19/1994)
04/15/1994	24	Rply mem of p/a in suppt ntc by defendant Eli Lilly & Company, defendant Advanced Cardiovascu, defendant Connie Elliano, defendant Karen Kadyk, defendant Eve Chaplin to motion to dismiss [3-1] (ruiz) (Entered: 04/21/1994)
04/25/1994	25	MINUTES: granting motion to continue hrg on dfts' mtn to dism [15-1], GRANT in part DENY in part motion to dismiss w/lv to amd, as the fraud clm & th denial of ext of contract clm. The mtn to dism the remaining state clm is DENIED [3-1] by Judge Gary L. Taylor CR: Ron Worth (cc: all counsel) (ruiz) (Entered: 04/27/1994)
05/19/1994	26	REQUEST by plaintiff Holli Lundahl, plaintiff Donald R Johnson, plaintiff Mission Trail Medica, plaintiff - Mission Trail Medica, plaintiff Lundahl Chiropractic to ent dflt (krpa) (Entered: 05/20/1994)

7

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH

CENTRAL DIVISION

HOLLI LUNDAHL, Plaintiff, vs. DOUG MURDOCK, et al., Defendants.	ORDER DISMISSING CASE Bankruptcy Case No. 03-21660 Adversary Proceeding No. 03-2402 Case No. 2:04 cv 88 PGC

Ms. Lundahl filed this motion to withdraw the reference to the Bankruptcy Court on January 28, 2004. The Bankruptcy Court dismissed Ms. Lundahl's underlying bankruptcy case on December 24, 2003, and dismissed this adversary proceeding on December 22, 2003 remanding the matter to the Fourth District Court in Utah. The court will interpret these pleadings as an appeal of the Bankruptcy Court's ruling dismissing this case without prejudice.

Ms. Lundahl filed a notice of appeal on January 5, 2004, and on February 3, 2004, the Bankruptcy Appellate Panel dismissed her appeal for failure to prosecute.

On January 28, 2004, Ms. Lundahl filed the pending motion to withdraw the reference. The court dismisses this proceeding for three reasons: (1) failure to properly complete service; (2) failure to properly prosecute her appeal; and (3) because the Bankruptcy court correctly dismissed this adversary proceeding.

7

Bankruptcy Court's Ruling

The Bankruptcy Court properly dismissed Ms. Lundahl's adversary proceeding in this case. Once the Bankruptcy Court dismissed the underlying bankruptcy proceeding, it lacked the jurisdiction to hear this adversary proceeding.[3] Notably the Bankruptcy Court dismissed this proceeding without prejudice, and this court does as well.

Motion to Stay

On May 3, 2004, over four months after her untimely motion to withdraw the reference from bankruptcy court, Ms. Lundahl filed a motion to stay these proceedings. The court DENIES the motion to stay all proceedings while Ms. Lundahl prosecutes her appeal at the Tenth Circuit, finding no good cause shown.

Conclusion

The court DENIES the motion to withdraw the reference in this case as untimely (#2-1). The court DENIES the motion to stay all proceedings (#4-1). The court DISMISSES this case without prejudice for failure to prosecute.

SO ORDERED.

DATED this 16th day of September, 2004.

BY THE COURT:

Paul G. Cassell
United States District Judge

[3] *See Smith v. Commercial Banking Corp., (In re Smith)*, 866 F.2d 576, 580 (3rd Cir. 1989); *in re Statistical Tabulatin Corp.*, 60 F.3d 1286, 1289 (7th Cir. 1995); *Querner v. Querner (In re Querner)*, 7 F.3d 1199, 1201-02 (5th Cir. 1993).

tsh

United States District Court
for the
District of Utah
September 3, 2004

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-00088

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Holli Lundahl
PO BOX 833
LEHI, UT 84043

Mr. Curtis J. Drake, Esq.
SNELL & WILMER LLP
15 W SOUTH TEMPLE STE 1200
GATEWAY TOWER W
SALT LAKE CITY, UT 84101
EMAIL

Andres' Diaz
313 BOSTON BUILDING
#9 EXCHANGE PL
SALT LAKE CITY, UT 84111

Helene Huff
US BANKRUPTCY COURT
, 84101
EMAIL

8

, REFER

UNITED STATES DISTRICT COURT for the CENTRAL DISTRICT OF CALIFORNIA
(Eastern Division - Riverside)
CIVIL DOCKET FOR CASE #: 5:94-cv-00021-RT -CT

Holli Lundahl, et al v. Eli Lilly & Company, et al
Assigned to: Judge Robert J. Timlin
Referred to: Magistrate Judge Carolyn Turchin
Demand: $0
Case in other court: Santa Ana, 8:94-cv-00045
Cause: 42:1983 Civil Rights Act

Date Filed: 10/18/1994
Date Terminated: 10/06/1998
Jury Demand: Both
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

Plaintiff

Holli Lundahl
D C

represented by Holli Lundahl
200 E Center St
Orem, UT 84057
PRO SE

Francis C Pizzulli
Francis C Pizzulli Law Offices
718 Wilshire Blvd
Santa Monica, CA 90401
310-451-8020
Fax: 310-458-6156
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Jerry L Steering
Jerry L Steering Law Offices
4063 Birch Street, Suite 100
Newport Beach, CA 92660
949-474-1849
Email: jerrysteering@yahoo.com
TERMINATED: 07/21/1994
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Donald R Johnson
D O
TERMINATED: 09/04/1996

represented by **Donald R Johnson**
IN PRO PER
27365 Jefferson Ave

'8'

06/08/1995	146	ORDER on Appli to Withdraw as Cnsl of Record by Judge Robert J. Timlin (mco) (Entered: 06/21/1995)
06/09/1995	144	SUPPLEMENT objection to by plaintiff Holli Lundahl re objection [135-1] (lm) (Entered: 06/16/1995)
06/09/1995	145	ORDER - It is ord that GTE preserve til her final concluion the telephone records of Merrelin Bland for months 1/1/91 to 4/4/91; GTE may file obj to this ord by 6/22/95; if GTE files no obj by 6/14/95, this ord becomes final by Judge Robert J. Timlin (mco) (Entered: 06/21/1995)
06/13/1995	147	MINUTES: Defts ACS, Inc., Eli Lilly & Co., Connie Elliano, Connie Harrison, Merrelin Blank, Joyce Johnson, Beverly Gilsdorf, & Patricia Wayman's mot to declare Holly Lundahl a VEXATIOUS LITIGANT is DENIED. Crt GRANTS the ACS defts' req to take judicial ntc of certain docs; Crt denies pltfs oral argument on mtn by Robert J. Timlin CR: n/a (mco) Modified on 09/20/1996 (Entered: 06/21/1995)
06/14/1995	152	Opp to plf mot fr review and reconsideration of 5/5/95 discv ord and by ACS defendants (lc) (Entered: 06/26/1995)
06/14/1995	153	MINUTES: Re ACS defts motion to dism suppltl jurisdiction; Crt grants defts req that crt tk judicialntoc of certain st crt docs; plfs' state claims for breach of contract and common counts consequently are dism as to all defts w.o leve to amd; Crt DENIES ACS defts motion to dism suppltl jurisdictionoverthem or in alt to abstain and stay action; plf are ord to file 2nd A/C w/i 30 days of date of this ord by Judge Robert J. Timlin CR: none (lc) (Entered: 06/26/1995)
06/19/1995	150	NOTICE OF MOTION AND MOTION by plaintiff Holli Lundahl to dismiss counterclaim ; motion hearing set for 10:00 7/24/95 (mco) (Entered: 06/21/1995)
06/20/1995	151	ORDER tr Oral Argument by Judge Robert J. Timlin (mco) (Entered: 06/21/1995)
06/21/1995	154	RESPONSE to 6/9/95 order by 3rd pty witness GTE California Incorporated (lc) (Entered: 06/26/1995)
06/23/1995	155	RESPONSE by plaintiff Holli Lundahl to 3rd pty wit GTE resp to 6/9/95 order [154-1] (lc) (Entered: 06/26/1995)
06/26/1995	156	SUPPL MEMORANDUM by plaintiff Holli Lundahl in support of motion for reconsideration of compelled prod of income tax retns [132-1] (lc) (Entered: 07/05/1995)
06/29/1995	157	SUPPL MEMORANDUM by plaintiff Holli Lundahl in support of motion for reconsideration of 5/8/95 discv ord [129-1] (lc) (Entered: 07/05/1995)
06/29/1995		LODGED/PROPOSED Order remot fr review and reconsideration by plf (FWD TO CRD) (lc) (Entered: 07/05/1995)
06/29/1995		LODGED/PROPOSED Order re osc hrg hld 4/10/95 by plf (FWD TO CRD) (lc) (Entered: 07/05/1995)
07/05/1995	158	2ND AMENDED COMPLAINT [29-1] by plaintiff Holli Lundahl, plaintiff Donald R Johnson, plaintiff Mission Trail Medica, plaintiff - Mission Trail Medica, plaintiff Lundahl Chiropractic; adding Co of Riverside Sherriffs Department, Micheal Stock; jury demand (lc) (Entered: 07/06/1995)
07/10/1995	159	Opp to mot to dism by defendant Advanced Cardiovascu to motion to dismiss counterclaim [150-1] (lc) (Entered: 07/11/1995)
07/11/1995	160	MINUTES: Findings and ord re OSC Issd 3/16/95; Crt ORD Holli Lundahl not to engage in

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IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH

CENTRAL DIVISION

HOLLI LUNDAHL, Plaintiff, vs. CNA FINANCIAL CORP.,et al., Defendants.	ORDER DISMISSING CASE Bankruptcy Case No. 03-21660 Adversary Proceeding No. 03-2336 Case No. 2:04 cv 84 PGC

Ms. Lundahl filed this motion to withdraw the reference to the Bankruptcy Court on January 28, 2004. The Bankruptcy Court dismissed Ms. Lundahl's underlying bankruptcy case on December 19, 2003, and dismissed this adversary proceeding on December 22, 2003, remanding the matter to the Fourth District Court in Utah. The court will interpret Ms. Lundahl's pleadings as an appeal of the Bankruptcy Court's ruling dismissing this case without prejudice.

Ms. Lundahl filed a notice of appeal on January 5, 2004, and on February 3, 2004, the Bankruptcy Appellate Panel dismissed her appeal for failure to prosecute.

On January 28, 2004, Ms. Lundahl filed the pending motion to withdraw the reference. The court dismisses this proceeding for three reasons: (1) failure to properly complete service; (2) failure to properly prosecute her appeal; and (3) because the Bankruptcy Court correctly dismissed this adversary proceeding.

5

"9"

Bankruptcy Court's Ruling

The Bankruptcy Court properly dismissed Ms. Lundahl's adversary proceeding in this case. Once the Bankruptcy Court dismissed the underlying bankruptcy proceeding, it lacked the jurisdiction to hear this adversary proceeding.[3] Notably the Bankruptcy Court dismissed this proceeding without prejudice, and this court does as well.

Motion to Extend Time for Plaintiff to Respond andMotion to Continue or Stay All Proceedings

On May 3, 2004, Ms. Lundahl sought a stay of all proceedings in this court while she pursued her pending appeal before the Tenth Circuit. The court DENIES this motion finding no good cause.

Conclusion

The court DENIES the motion to withdraw the reference in this case as untimely (#2-1). The court DENIES the motion to stay all proceedings (#4-1). The court DISMISSES this case without prejudice for failure to prosecute. This case is remanded to state court.

SO ORDERED.

DATED this 1st day of ~~August~~ September, 2004.

BY THE COURT:

Paul G. Cassell
United States District Judge

[3] *See Smith v. Commercial Banking Corp., (In re Smith),* 866 F.2d 576, 580 (3rd Cir. 1989); *in re Statistical Tabulatin Corp.*, 60 F.3d 1286, 1289 (7th Cir. 1995); *Querner v. Querner (In re Querner),* 7 F.3d 1199, 1201-02 (5th Cir. 1993).

tsh

United States District Court
for the
District of Utah
September 3, 2004

*** * CERTIFICATE OF SERVICE OF CLERK * ***

Re: 2:04-cv-00084

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Holli Lundahl
PO BOX 833
LEHI, UT 84043

Brent O. Hatch, Esq.
HATCH JAMES & DODGE
10 W BROADWAY STE 400
SALT LAKE CITY, UT 84101
EMAIL

Helene Huff
US BANKRUPTCY COURT
, 84101
EMAIL

10

United States Courts
U.S. Federal Bldg & Courthouse
550 W Fort St, Box 039
Boise, ID 83724
PH: (208) 334-1361
FAX: (208) 334-9362

Cameron S. Burke, Court Executive

July 14, 2006

Holli Lundahl
P O Box168
Malad, ID 83252

Dear Ms. Lundahl,

Your documents are being returned to you along with a copy of the Order signed by Judge Tallman in case CV 05-127-E-RCT, Docket #50.

At this time the Court is unable to locate the check you submitted with your filing. You may need to take any steps you feel necessary regarding the check. If the Court does locate your check, it will be returned to you immediately. We apologize for any inconvenience this may have caused you.

Sincerely,

Cameron S. Burke
Clerk of Court

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APPEAL,LC3

U.S. District Court
District of Idaho (LIVE Database)Version 5.1.1 (Pocatello - Eastern)
CIVIL DOCKET FOR CASE #: 4:05-cv-00127-RCT

Lundahl et al v NAR Inc. et al
Assigned to: Judge Richard C. Tallman
Case in other court: Ninth Circuit Court of Appeals, 06-56436
Cause: 18:1961 Racketeering (RICO) Act

Date Filed: 04/08/2005
Date Terminated: 08/01/2006
Jury Demand: Plaintiff
Nature of Suit: 470 Racketeer/Corrupt Organization
Jurisdiction: Federal Question

Plaintiff

Holli Lundahl represented by **Holli Lundahl**
P O Box168
Malad, ID 83252
PRO SE

Plaintiff

S Walker represented by **S Walker**
68 West 100 North
Malad City, ID 83252
PRO SE

Plaintiff

Mari Galbardo

V.

Defendant

NAR Inc

Defendant

Mark Olson

Defendant

Olson and Associates PC

Defendant

Olympus Dental

Defendant

Anthony Tidwell

Defendant

Ronald Price represented by **Ronald Price**

		Price. (Attachments: # 1 Exhibits A-B# 2 Exhibit C# 3 Exhibit D-H# 4 Exhibit I-O# 5 Declaration of Ronald F. Price)(ja,) (Entered: 04/28/2005)
05/04/2005	9	ORDER denying 1 Motion for Leave to Proceed in forma pauperis. Plaintiffs shall pay the filing fee of $250 within 30 days of the date of this Order before this matter shall be allowed to proceed further . Signed by Judge Larry M. Boyle. (caused to be mailed to non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by ja,)
05/13/2005	10	RETURN MAIL undelivered as to S. Walker re: 9 Order (ja,)
07/28/2005	11	ORDER that this matter is referred to the Clerk of Court for reassignment to a District Judge. Signed by Judge Larry M. Boyle. (caused to be mailed to non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by ja,)
07/28/2005	12	NOTICE of Case Number Change by the Clerk's Office from CIV 05-127-E-LMB to CIV 05-127-E-BLW. Please use new case number on all future filings. re 11 Order (ja,)
07/28/2005	13	SUMMONS Returned Executed by Holli Lundahl. Michael Wilkens served on 7/13/2005, answer due 8/2/2005. (ja,) (Entered: 08/01/2005)
07/28/2005	14	SUMMONS Returned Executed by Holli Lundahl. Christine Durham served on 7/13/2005, answer due 8/2/2005. (ja,) (Entered: 08/01/2005)
07/28/2005	15	SUMMONS Returned Executed by Holli Lundahl. Matthew Durrant served on 7/13/2005, answer due 8/2/2005. (ja,) (Entered: 08/01/2005)
08/10/2005	16	RETURN MAIL undelivered as to S. Walker re: 11 Order, (ja,)
02/01/2006	17	DOCKET ENTRY ORDER - This case is hereby referred to Judge Richard C. Tallman, United States Circuit Judge, for the Ninth Circuit Court of Appeals, resolution of the entire case. All motions shall be decided on the briefs and record. Judge B. Lynn Winmill. (caused to be mailed to Holli Lundahl, P.O. Box 833, Lehi, Utah 84043. (non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by sbh)
02/10/2006	18	RETURN MAIL undelivered as to S. Walker re: 17 Order (ja)
04/07/2006	19	ORDER Show Cause Hearing set for 5/19/2006 01:00 PM in Boise, ID before Honorable Richard C. Tallman.. Signed by Judge Richard C. Tallman. (caused to be mailed to non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by jg,) (Entered: 04/11/2006)
04/13/2006	20	DOCKET ENTRY ORDER - AMENDED NOTICE OF HEARING - Please be advised that the date and time of the Order to Show Cause hearing has been changed from May 19, 2006 at 1:00 p.m. to Monday, May 15, 2006 at 1:30 p.m. at the James A. McClure Federal Building and U.S. Courthouse in Boise, Idaho. Please make note of the new date and time. Signed by Judge Richard C. Tallman. (caused to be mailed to non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by sbh) Modified on 4/14/2006: served by certified mail retrun receipt requested on Holli Lundahl PO Box 833, Lehi, UT 84043, Article #7099 3220 0004 6891 7137(jlg,).

04/13/2006	21	NOTICE of Hearing: Show Cause Hearing set for 5/15/2006 1:30 AM in Boise, ID before Honorable Richard C. Tallman. (caused to be mailed to non Registered Participants at the addresses listed on the Notice of Electronic Filing (NEF) by dkh,) (Entered: 04/14/2006)
04/19/2006	22	RETURN MAIL undelivered as to S. Walker re: 19 Order, Set Deadlines/Hearings,, (jg,) Additional attachment(s) added on 4/20/2006 (jg,).
04/20/2006	23	RESPONSE TO INVITATION TO SUBMIT INFORMATION REGARDING HOLLI LUNDAHL'S VEXATIOUS LITIGATION by LAHA (dkh,) (Entered: 04/21/2006)
04/21/2006	24	RETURN MAIL undelivered as to S Walker re: 21 Notice of Hearing (jlg,) (Entered: 04/24/2006)
04/21/2006	25	RETURN MAIL undelivered as to S Walker re: 20 Docket Entry Order (jlg,) (Entered: 04/24/2006)
04/28/2006	26	SUBMISSION OF INFORMATION to Court in Response to Order, filed 4/7/06 and Notice of Hearing, filed 4/13/06 filed by Interested Parties Eli Lilly and Company, Inc., Advanced Cardiovascular Systems, Inc. (ja) Additional attachment(s) added on 5/1/2006 (ja,). (Entered: 05/01/2006)
05/08/2006	27	MEMORANDUM/BRIEF re 19 Order, Set Deadlines/Hearings,,, 20 Order,,, 21 Notice of Hearing filed by Jeffrey Compton *The Compton Defendants', The Strong & Hanni Defendants' and CNA's Joint Memorandum in Support of Entry of Vexatious Litigant Order Against Holli Lundahl (REFERENCE CASE NO. 05-127).* (Evett, Joshua) Sealed document on 5/8/2006, wrong image was attached and attorney will re-file (jlg,).
05/08/2006		CORRECTIVE ENTRY - The entry docket number 27 Memorandum/Brief (generic) filed by Jeffrey Compton. was filed incorrectly in this case. The wrong pdf image was attached. Attorney to re-file the correct document. Clerk sealed the document because it contained personal information not related to this case. (jlg,)
05/08/2006	28	MEMORANDUM/BRIEF re 19 Order, Set Deadlines/Hearings,,, 20 Order,,, 21 Notice of Hearing filed by Jeffrey Compton *The Compton Defendants', the Strong & Hanni Defendants' and CNA's Joint Memorandum in Support of Entry of Vexatious Litigant Order Against Holli Lundahl (REFERENCE CASE NOS. 06-14 and 05-145).* (Attachments: # 1 Affidavit of Joseph N. Pirtle in Support of Entry of Vexatious Litigant Order Against Holli Lundahl & Ex. A & B# 2 Affidavit Exhibits C-G)(Evett, Joshua)
05/08/2006	29	MEMORANDUM/BRIEF re 19 Order. Set Deadlines/Hearings,,, 20 Order,,, 28 Memorandum/Brief (generic), Memorandum/Brief (generic), Memorandum/Brief (generic), 21 Notice of Hearing filed by Jeffrey Compton *The Elam & Burke Defendants' Memorandum in Support of Entry of Vexatious Litigant Order Against Holli Lundahl (REFERENCE CASE NOS.: 06-14 and 05-145).* (Evett, Joshua)
05/08/2006	30	AFFIDAVIT of J. Kevin West re 19 Order, Set Deadlines/Hearings,, filed by Paul C. Hess, Amber Allen and Beehive Credit Union. (Werth, Randall)
		Brown CASE

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AO 10
Rev. 1/2007

FINANCIAL DISCLOSURE REPORT
FOR CALENDAR YEAR 2006

Report Required by the Ethics in Government Act of 1978 (5 U.S.C. app. §§ 101-111)

1. Person Reporting (last name, first, middle initial)	2. Court or Organization	3. Date of Report
Tallman, Richard C	U. S. Court of Appeals 9th Cir.	04/06/2007
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time)	**5a. Report Type (check appropriate type)**	**6. Reporting Period**
Active U.S. Circuit Judge	☐ Nomination, Date ☐ Initial ☒ Annual ☐ Final 5b. ☐ Amended Report	01/01/2006 to 12/31/2006
7. Chambers or Office Address	**8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is, in my opinion, in compliance with applicable laws and regulations.**	
1200 Sixth Avenue Park Place Bldg. 21st Fl. Seattle, WA 98101-3123	Reviewing Officer_____ Date_____	

IMPORTANT NOTES: The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information. Sign on last page.

I. POSITIONS. *(Reporting individual only; see pp. 9-13 of instructions.)*

☐ NONE *(No reportable positions.)*

	POSITION	NAME OF ORGANIZATION/ENTITY
1.	Executive Board Member	Chief Seattle Council, Boy Scouts of America
2.	Member	Northwestern University School of Law Advisory Board
3.	Board of Directors	Federal Judges Association (ended June 2006)
4.		
5.		

II. AGREEMENTS. *(Reporting individual only; see pp. 14-16 of instructions.)*

☒ NONE *(No reportable agreements.)*

	DATE	PARTIES AND TERMS
1.		
2.		
3.		

RECEIVED
2007 MAR 17 P 2:08
FINANCIAL DISCLOSURE OFFICE

Name of Person Reporting	Date of Report
Tallman, Richard C	4/6/2007

III. NON-INVESTMENT INCOME. *(Reporting individual and spouse; see pp. 17-24 of instructions.)*

A. Filer's Non-Investment Income

[X] NONE *(No reportable non-investment income.)*

	DATE	SOURCE AND TYPE	INCOME (yours, not spouse's)
1.			
2.			
3.			
4.			
5.			

B. Spouse's Non-Investment Income - *If you were married during any portion of the reporting year, complete this section.*
(Dollar amount not required except for honoraria.)

[ ] NONE *(No reportable non-investment income.)*

	DATE	SOURCE AND TYPE
1.	2006	City of Seattle Police Department
2.	2006	Washington State Department of Retirement Systems
3.	2006	Prudential Insurance Company
4.		
5.		

IV. REIMBURSEMENTS - *transportation, lodging, food, entertainment.*

(Includes those to spouse and dependent children. See pp. 25-27 of instructions.)

[ ] NONE *(No reportable reimbursements.)*

	SOURCE	DESCRIPTION
1.	Northwestern University School of Law	Jan. 26-29, 2006, Chicago, IL Law Review Centennial (Transportation, Lodging, Meals)
2.	Catholic University	April 1, 2006 Washington, D.C. Sutherland Cup Final Moot Court (Transportation, Lodging, Meals)
3.	Federal Judges Association	May 7-9, 2006 Washington, DC Annual Board of Dir. Mtg. (Transportation, Lodging, Meals)
4.	University of Idaho College of Law	Nov. 3-5, 2006 Moscow, ID Moot Court Competition (Transportation, Lodging, Meals)

FINANCIAL DISCLOSURE REPORT
Page 5 of 8

Name of Person Reporting	Date of Report
Tallman, Richard C	4/6/2007

VII. INVESTMENTS and TRUSTS – *income, value, transactions (Includes those of the spouse and dependent children. See pp. 34-60 of filing instructions.)*

☐ NONE *(No reportable income, assets, or transactions.)*

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period (1) Amount Code 1 (A-H)	B. (2) Type (e.g. div., rent, or int.)	C. Gross value at end of reporting period (1) Value Code 2 (J-P)	C. (2) Value Method Code 3 (Q-W)	D. Transactions during reporting period (1) Type (e.g. buy, sell, redemption)	D. (2) Date Month - Day	D. (3) Value Code 2 (J-P)	D. (4) Gain Code 1 (A-H)	D. (5) Identity of buyer/seller (if private transaction)
1. Prudential Retirement Funds: $ 500000		None	N	T					
2. - PIMCO Total Return Instl. Fund $250,000 - PAC LIFE			M	T					
3. - Dodge & Cox Stock Fund			M	T					
4. - Hotchkis & Wiley Small- Cap Value Fund			L	T					
5. - Euro Pacific Growth Fund			K	T					
6. Union Bank of California, checking & savings accts	A	Interest	J	T					
7. Seattle City Credit Union, checking and savings accounts	A	Interest	J	T					
8. Washington Mutual Bank checking & savings accts	A	Interest	K	T					
9. Vanguard Group Funds:		None	O	T					
10. - Vanguard 500 Index			M	T					
11. - Vanguard Explorer			M	T					
12. - Vanguard Social Index			K	T					
13. - Vanguard GNMA			L	T					
14. - Vanguard High-Yield Corporate			K	T					
15. - Vanguard International Growth			L	T					
16. - Vanguard Total Bond Market Index			M	T					
17. Aetna Universal Life Ins (See Note, Part		None	J	V					

1. Income Gain Codes: (See Columns B1 and D4)
A =$1,000 or less
B =$1,001 - $2,500
C =$2,501 - $5,000
D =$5,001 - $15,000
E =$15,001 - $50,000
F =$50,001 - $100,000
G =$100,001 - $1,000,000
H1 =$1,000,001 - $5,000,000
H2 =More than $5,000,000
J =$15,000 or less
K =$15,001 - $50,000
L =$50,001 - $100,000
M =$100,001 - $250,000
N =$250,001 - $500,000
O =$500,001 - $1,000,000
P1 =$1,000,001 - $5,000,000
P2 =$5,000,001 - $25,000,000
P3 =$25,000,001 - $50,000,000
P4 =More than $50,000,000

2. Value Codes (See Columns C1 and D3)

3. Value Method Codes (See Column C2)
Q =Appraisal
R =Cost (Real Estate Only)
S =Assessment
T =Cash Market
U =Book Value
V =Other
W =Estimated

Name of Person Reporting	Date of Report
Tallman, Richard C	4/6/2007

IX. CERTIFICATION.

I certify that all information given above (including information pertaining to my spouse and minor or dependent children, if any) is accurate, true, and complete to the best of my knowledge and belief, and that any information not reported was withheld because it met applicable statutory provisions permitting non-disclosure.

I further certify that earned income from outside employment and honoraria and the acceptance of gifts which have been reported are in compliance with the provisions of 5 U.S.C. app. § 501 et. seq., 5 U.S.C. § 7353, and Judicial Conference regulations.

Signature [redacted] Date 4/6/07

NOTE: ANY INDIVIDUAL WHO KNOWINGLY AND WILFULLY FALSIFIES OR FAILS TO FILE THIS REPORT MAY BE SUBJECT TO CIVIL AND CRIMINAL SANCTIONS (5 U.S.C. app. § 104)

FILING INSTRUCTIONS

Mail signed original and 3 additional copies to:

Committee on Financial Disclosure
Administrative Office of the United States Courts
Suite 2-301
One Columbus Circle, N.E.
Washington, D.C. 20544

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STANDARD &POOR'S

Global Credit Portal
RatingsDirect

February 1, 2012

Servicer Evaluation: Pacific Life Insurance Co.

Servicer Analysts:
Thomas Merck, New York (1) 212-438-2547; thomas_merck@standardandpoors.com
Mark I Goldberg, New York (1) 212-438-7779; mark_goldberg@standardandpoors.com

Table Of Contents

Opinion

Outlook

Profile

Management And Organization

Loan Administration

Financial Position

Related Criteria And Research

CONTACT US

(800) 259-9010

NAME:

EMAIL:

PHONE:

MESSAGE:

Pacific Life Background Information

Pacific Life was founded in 1868 in San Francisco. Its first president was Leland Stanford, who was later a California Senator. Stanford also founded Stanford University, which was bailed out financially by his widow soon after his death.

Pacific Life survived San Francisco's great earthquake in 1909 when an office manager thought to remove the firm's bearer bonds as he left the building. The structure was then leveled by firefighters as a firebreak. A Los Angeles based life insurance company had just been acquired and the firm's headquarters were thus moved to that city.

As did other such firms for tax breaks, Pacific Life became a "mutual" life company, owned by its shareholders. After celebrating its 100th anniversary, with a keynote speech by Governor Ronald Reagan, the company soon relocated to Newport Beach. Its seashore image is now built around a rolling humpback whale. In 1997, Pacific Life converted back from a mutual to a corporate structure by issuing stock to policyholders. Unlike many other life insurance firms which have reverted form the mutual structure, Pacific Life it has not at this time gone public.

In 1971, Pacific Life launched PIMCO as an investment management subsidiary which offers services to employee benefit plans, endowments, and foundations. Through a reverse merger in 1994, PIMCO Advisors became a publicly traded company, primarily managing fixed-income securities; currently it is total of almost half-trillion dollars.

Pacific Life has acquired a number of securities broker-dealer firms, including Florida-based Mutual Service Corporation, servicing over 2,000 registered representatives, Los Angeles-based Associated Securities Corp., with 340 representatives and Beverly Hills-based M. L. Stern & Company with 140. It also acquired majority interest in United Planners' Financial Services of America, an Arizona-based broker-dealer with 330 representatives. In 1999, it acquired Tower Asset Management, a fee-based investment advisory firm. Sorrento Pacific Financial became yet another piece of the puzzle.

These, and other securities firm subsidiaries, came to be operated under common management through Pacific Select Group LLC, a division of Pacific Life. However, in March 2007, it was announced that rapidly growing LPL Financial Services, a nearby La Jolla based firm, was acquiring three of Pacific Life Insurance Company's broker-dealers--Mutual Service Corporation, Associated Financial Group, and Waterstone Financial Group. Collectively, these three broker-dealers have 2,200 financial advisors serving retail clients and $353 million in revenues. It was said this would increase LPL to 10,000 brokers, the company's goal prior to an IPO.

Shepherd Smith Edwards & Kantas LTD LLP Law Firm

Our law firm represents institutional and individual investors nationwide with significant losses in their portfolios, retirement plans and investment accounts. Our attorneys and staff have more than 100 years of combined experience in the securities industry and in securities law. Several of our lawyers served for years as Vice President or Compliance Officer of brokerage firms.

Each lawyer and staff member of our firm is devoted to assisting investors to recover losses caused by unsuitability, over-concentration, fraud, misrepresentation, self-dealing, unauthorized trades or other wrongful acts, whether intentional or negligent. Each attorney at our firm has experience representing investors in securities arbitration claims and/or lawsuits. We have handled more than thousand cases against hundreds of large and small brokerage firms, including against life insurance subsidiaries.

Call us at (800)259-9010 or contact us through our Website to arrange a free confidential consultation with an attorney to discuss your experiences with an investment advisor or financial firm which resulted in losses.

Additional Information:

Pacific Life Sued over Variable Annuities

Outlook

The outlook is stable for the primary and special servicing rankings. The company's relatively steady operations and procedures and loan management practices support our opinion that the company will likely remain a competent commercial mortgage servicer and asset manager.

The outlook is negative for the master servicing ranking reflecting a lack of any master servicing activity involving interactions with a subservicer for nearly a 24-month period. Should this trend continue it may be necessary to bring the ranking more inline with those of similarly arranged platforms.

Profile

Pacific Life provides commercial real estate finance and investment expertise to its life insurance, investment, and annuities businesses, as well as to its private-party and securitized mortgage loan-servicing clients. As of June 30, 2011, the company had 77 employees involved in primary, master, and special servicing operations monitoring roughly 500 loans in its commercial real estate portfolio with an unpaid principal balance (UPB) of approximately $7.8 billion.

Pacific Life is an active mortgage loan servicer of both CMBS and private investment portfolios. The company began servicing for third-party private clients in the 1970s and was an early participant in the CMBS market.

Table 1

Pacific Life Insurance Co. FSB

Total Primary And Master Servicing Portfolio Statistics

	6/30/2011	12/31/2010	12/31/2009	12/31/2008	12/31/2007
Total master and/or primary servicing					
Total volume (mil. $)	7,764.10	6,612.30	6,879.20	6,672.50	5,893.50
Total loans (no.)	483	468	473	435	440
Avg. loan size (mil. $)	16.1	14.1	14.5	15.3	13.4
Master servicing only					
Total volume (mil. $)	0	0	41.7	47	56.5
Total loans (no.)	0	0	2	4	4
Avg. loan size (mil. $)	0	0	20.9	11.8	14.1
Subservicers (no.)	0	0	1	2	2
Total master/primary portfolio delinquencies (% of no. of loans)					
31-60 days	0.41	0	0	0	0
61-89 days	0	0.43	0	0	0
90+ days	0	0.43	0	0	0
Total (%)	0.41	0.85	0	0	0

Management And Organization

Our subranking for management and organization is STRONG.

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Doc. 65

Document Selection Menu

Multiple Documents

Select the document you wish to view.

Part	Description	
1	Main Document	9 pages
2	Exhibit VHS Tape in expando file in clerks office	44 pages
3	Exhibit 9 - 22	47 pages

View All or Download All 100 pages

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USCA9 Docket Sheet for 97-80258

General Docket
US Court of Appeals for the Ninth Circuit

rt of Appeals Docket #: 97-80258 Filed: 6/5/97
it: C
dahl v.
al from: Central District of California, Los Angeles

type information:
1) misc
2) (null)
3) (null)

court information:

District: 0973-2 :
ate Filed: **/**/**
ate order/judgment: **/**/**
ate NOA filed: **/**/**

tus: not applicable

ses:

cases:

Holli Lundahl
[CDR LD NTC prs]
P.O. Box 1371
Orem, UT 84059-1371

USCA9 Docket Sheet for 97-80258

97-80258 Lundahl v.

6/12/97	Case number assigned. (PRO SE) (terr)
6/12/97	Filed order [illegible] Holli Lundahl, is ordered to respond and show cause within 14 days of the entry of this order why this ct should not enter the following pre-filing review order....(see csfile for more info.).... response to order to show cause due 6/26/97; (MOTIONS) [97-80258] (ckp)
7/17/97	Order filed (Motions Aty: SG) ...Respndt has failed to respond to the order to show cause. Pursuant to the 6/12 order, the following PRE-FILING REVIEW ORDER IS HEREBY ENTERED.....(see csfile)..... (Procedurally Terminated Without Judicial Action; Default.) [97-80258] (ckp)

Selected docket entries for case 97-80258

Filed	Document Description	Page	Docket Text
07/17/1997			Order filed (Motions Aty: SG) ...Respndt has failed to respond to the order to show cause. Pursuant to the 6/12 order, the following PRE-FILING REVIEW ORDER IS HEREBY ENTERED.....(see csfile)..... (Procedurally Terminated Without Judicial Action; Default.) [97-80258] (CKP)

Please be advised that actual order is not in custody of 9th circuit but is reportedly at some archive center for the Circuit.
Pre-filing Order was actually entered by motions attorney Susan Golmis.

Certified to be a true and correct copy of original filed in my office.
Elizabeth Smith, Clerk
United States Courts, District of Hawaii
By _____ Date _____

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Utah County Online Real Property Owner Name Search - Results

Utah County Online
The Official Web Site of Utah County Government

REAL PROPERTY OWNER NAME SEARCH

Owner Name	Serial #	Tax District	Years Valid	Property Address
LUNDAHL, HOLLI	20:059:0010	(110)	1994-1996	2748 N 930 EAST - PROVO
LUNDAHL, HOLLI	20:059:0010	(110)	1994NV	2748 N 930 EAST - PROVO
LUNDAHL, HOLLI	20:059:0010	(110)	1992-1993	2748 N 930 EAST - PROVO
LUNDAHL, HOLLI T	20:059:0003	(110)	1985-1991	2748 N 930 EAST - PROVO
LUNDAHL, HOLLI T	20:059:0003	(110)	1984	2748 N 930 EAST - PROVO
LUNDAHL, HOLLI T	20:059:0011	(110)	1992-2003	

Main Menu

Comments or Concerns on Value/Appraisal - Assessor's Office
Documents/Owner/Parcel information - Recorder's Office
Address Change for Tax Notice

This page was created on 3/14/2013 6:53:54 AM

Utah County Online
The Official Web Site of Utah County Government

REAL PROPERTY OWNER INFORMATION

Serial: 52:029:0071
Owner: LUNDAHL, HOLLI TELFORD
Mailing Address: 2748 N 930 EAST PROVO UT 84604
Property 4139 N DEVONSHIRE CIR PROVO UT 84604

Years Valid: 2000
Tax District: 110
Acres: 0.30
Property code: 100

Taxing description (not for legal documents)
LOT 71, PLAT B, SHERWOOD HILLS SUBD. AREA .30 ACRES.

3 Year Tax History

Year	Market	Assessed Value	Taxes	Adjustments	Payments	Balance
1999	227,367	125,052	1404.46	($1,177.58)	$226.88	$0.00
1998	227,367	125,052	1348.69	($552.00)	$796.69	$0.00
1997	227,367	125,052	1441.47	$0.00	$1,441.47	$0.00

More tax history
Map Filing
52:029:0071:2000

Main Menu

Comments or Concerns on Value/Appraisal Assessor's Office
Documents/Owner/Parcel Info Recorder's Office
Address Change for Tax Notice

This page was created on 09/05/2000 at 7:48:42

UTAH COUNTY TAX NOTICE
UTAH COUNTY TREASURER
DUPLICATE TAX NOTICE

Check here for change of address. (form on reverse side) ☐

Check here to receive a 2002 prepayment booklet. (form on reverse side) ☐

Pay Online @ utah.gov/proptax

Recorded owner as of JAN. 1, 2001

Pin #	0820440
Serial #	52:029:0071
Tax District #	110
Property Class	RS
2001 Amout Due	$0.00

52:029:0071
LUNDAHL, HOLLI TELFORD
2748 N 930 E
PROVO UT 84604-4378

Return this portion with your mail payment.
Retain this portion for your records. Your canceled check will be your receipt.

UTAH COUNTY TAX NOTICE
SEE REVERSE SIDE FOR IMPORTANT INFORMATION

MAKE CHECK PAYABLE TO UTAH COUNTY TREASURER
100 EAST CENTER, SUITE 1200, PROVO, UTAH 84606-3159

DUPLICATE TAX NOTICE

Recorded owner as of JAN. 1, 2001

LUNDAHL, HOLLI TELFORD
2748 N 930 E
PROVO UT 84604-4378

Pin #	0820440
Serial #	52:029:0071
Tax District #	110
Property Class	RS
2001 TAXES	$1,508.54
Adjustments	-$1,259.05
Total Payments	$249.49
2001 Amout Due	$0.00

Property Description (not for legal documents)
OT 71, PLAT B, SHERWOOD HILLS SUBD. AREA .30 ACRES.

Property Address 4139 N DEVONSHIRE CIR PROVO UT 84604

Value of Property			*Effective	Distribution of General Taxes		
Type	Taxable Value	Market Value	Tax Rate	Taxing Unit	Tax Rate	Amount
Res Real Est	38,972	70,859	0.000193	ASSE	0.000358	$50.87
Res Improv	105,690	192,163	0.000569	CNTY	0.001053	$149.63
			0.000193	CUWD	0.000358	$50.87
			0.001500	PROV	0.002776	$394.47
			0.003280	PRSD	0.006071	$862.70
Totals	144,662	263,022	0.005735		0.010616	$1,508.54

304

* Effective Tax Rate is computed by dividing tax amount by total market value

Notice created 5/27/04 08:18

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05/03/2006 10:49:00 RC006 CLERKS OFFICE ONEIDA COUNTY

INSTRUMENTS RECORDED

Instrument Number	Date	Time	Transaction Type / Description	#Pages	Fee Amt	Charge	Delivered To	On
138395	12/15/2005	04:20p	195 - LIEN 14 16S 36E T-3779 14 16S 36E T-3779 NAR, INC. (LIENOR)	5	$15.00		HOLLI LUNDAHL 10621 S. OLD HWY 191 MALAD ID 83252	
138962	04/27/2006	03:20p	056 - DEED, WARRANTY, SPECIAL 14 16S 36E T-3779 14 16S 36E T-3779 GRANTOR: SECURITY NATIONAL MORTGAGE COMPANY GRANTEE: KEDDINGTON, JAMES LUNDAHL, HOLLI MARCHANT, MARIE	3	$9.00		NORTHERN TITLE COMPANY MALAD ID 83252	

Instrument Count: 2

**********END OF REPORT**********

State of Idaho, County of Oneida } ss.

I, Chiles Blaisdell, Clerk of the District Court, Ex-Officio, Auditor and Recorder in and for the said County and State, hereby certify that the above and foregoing is a full, true and correct copy of the original as the same appears of record or on file in my office. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at Malad, Idaho this 3rd day of May 2006

By Chiles Blaisdell
Clerk District Court Ex-Officio

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(THIS ... FORMATION IS FOR OFFICIAL AND MEDICALLY CO... SENTIAL USE ONL...
A ... WILL NOT BE RELEASED TO UNAUTHORIZED ... ONS.

1. LAST NAME—FIRST NAME—MIDDLE NAME: LUNDAHL HOLLI T

2. REGISTER NUMBER: -05151-112

PURPOSE OF EXAMINATION

4. D
LUNDAHL
HOLLI TELFORE 05151-112
W/F/O/05-27-1956
HT/510 WT/140 HR/BN EY/HL
CUSTODY/IN

6. STATEMENT OF EXAMINEE'S PRESENT HEALTH AN... (Joint arises)

7. HAVE YOU EVER (Please check each item)

YES	NO	(Check each item)	YES	NO	(Check each item)
	X	Lived with anyone who had tuberculosis		X	Wear glasses or contact lenses
X		Coughed up blood NOW		X	Have vision in both eyes BLURRED
	X	Bled excessively after injury or tooth extraction		X	Wear a hearing aid
	X	Attempted suicide		X	Stutter or stammer habitually
	X	Been a sleepwalker		X	Wear a brace or back support

9. HAVE YOU EVER HAD OR HAVE YOU NOW (Please check at left of each item)

YES	NO	DON'T KNOW	(Check each item)	YES	NO	DON'T KNOW	(Check each item)	YES	NO	DON'T KNOW	(Check each item)
	X		Scarlet fever			X	Adverse reaction to serum drug	X			Epilepsy or fits 9-27-, drug
	X		Rheumatic fever				or medicine		X		Car, train, sea or air sickness
X			Swollen or painful joints	X			Broken bones NOW	X			Frequent trouble sleeping
X			Frequent or severe headache		X		Tumor, growth, cyst, cancer	X			Depression or excessive worry
X			Dizziness or fainting spells	X			Ruptured hernia POSSIBLE STOMACH		X		Loss of memory or amnesia
X			Eye trouble	X			Piles or rectal disease		X		Nervous trouble of any sort
	X		Ear, nose, or throat trouble		X		Frequent or painful urination	X			Periods of unconsciousness Coma 9-27-95
	X		Hearing loss		X		Bed wetting since age 12				Have you ever had
	X		Chronic or frequent colds		X		Kidney stone or blood in urine		X		homosexual contact?
X			Severe tooth or gum trouble		X		Sugar or albumin in urine		X		Been exposed to AIDS
	X		Sinusitis		X		VD—Syphilis, gonorrhea, etc.		X		Alcohol Use (Excessive)
	X		Hay Fever		X		Recent gain or loss of weight		X		Drug Use/Addiction
	X		Head injury		X		Arthritis, Rheumatism, or Bursitis		X		Marijuana
X			Skin diseases		X		Bone, joint or other deformity		X		Cocaine
	X		Thyroid trouble		X		Lameness		X		Hernia
	X		Tuberculosis		X		Loss of finger or toe		X		L.S.D.
	X		Asthma		X		Painful or "Trick" shoulder or elbow		X		Amphetamines
X			Shortness of breath	X			Recurrent back pain		X		Others: (Specify)
X			Pain or pressure in chest		X		"Trick" or locked knee				
	X		Chronic cough		X		Foot trouble				Alcohol or drug
X			Palpitation or pounding heart	X			Neuritis - Back injury		X		Withdrawal Problems
X			Heart trouble POST cardiac SYNC				Paralysis (facials infantile) 3 WEEKS (POST ASSAULT)				
X			High or low blood pressure NOW				SEVERE HEAD CONFUSION				
	X		Cramps in your legs					10. FEMALES ONLY HAVE YOU EVER			
X			Frequent indigestion						X		Been treated for a female disorder
X			Stomach, liver, or intestinal trouble possible rupture						X		Had a change in menstrual pattern
	X		Gall bladder trouble or gallstones				Metropolitan Detention Center		X		ARE YOU PREGNANT
	X		Jaundice or hepatitis				535 North Alameda Street		X		SUSPECT YOU ARE PREGNANT

11. Los Angeles, CA 90012

12. ARE YOU (Check one)
☒ Right handed ☐ Left handed

USP LVN — Previous editions not usable — BP-360(9... JANUARY 1...

"B"

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FD-302 (Rev. 10-6-95)

-1-

FEDERAL BUREAU OF INVESTIGATION

Date of investigation 12/14/2006

On December 11, 2006, detective Schwartz was telephonically interviewed at his place of employment, Oneida County Sheriff's office regarding Holli Lundahl's claimed residence at 10621 S. Old Highway 191, Malad City Idaho 83252. After being advised of the identity of the interviewing Agent and the purpose of the interview, Detective Schwartz provided the following information:

Detective Schwartz advised that he had visited Holli's alleged residence at 10621 S. Old Highway 191, Malad City Idaho to verify any occupancy of the residence for purposes of the upcoming bail appeal hearing and to support the competency of an earlier filed contempt judgment entered against Holli by federal judge Richard Tallman in June of 2006 barring Holli from filing any cases in the state of Idaho on the alleged grounds that Holli did not own or reside at the real property situs address 10621 S. Old Highway 191, Malad City Idaho. Judge Tallman had asked us to investigate into perjury charges against Ms. Lundahl.

Detective Schwartz admitted that he interviewed the county tax assessor who reported that no residence existed at this address, and further, that no homestead exemption had ever been recorded to obtain property tax benefits for a residence property. Detective Schwartz then visited the property in support of a prospective perjury prosecution prompted by Judge Tallman. Detective Schwartz reported that there was indeed an old farm house and barn located at Lundahl's claimed residence address but that Lundahl could not have been residing at the property because there was no power to the building. Detective Schwartz reported that he could not enter or see into the residence because the windows were completely covered and all accesses were locked. Based on detective Schwartz's report that no power existed to the building, an additional perjury charge was submitted.

Investigation on 12/14/2006 at Salt Lake City, Utah

File # 49-SU-62776 Date dictated 12/14/2006

by Sonja Sorenson:eva

"69"

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CJA, CLOSED

US District Court Electronic Case Filing System
District of Utah (Central)
CRIMINAL DOCKET FOR CASE #: 2:06-cr-00693-WFD-1

Case title: USA v. Lundahl

Date Filed: 10/04/2006
Date Terminated: 01/21/2009

Assigned to: Judge William F. Downes

Defendant (1)

Holli Lundahl
TERMINATED: 01/21/2009

represented by **D. Bruce Oliver**
180 S 300 W #210
SALT LAKE CITY, UT 84101-1218
(801) 328-8888
TERMINATED: 04/10/2007
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Retained

Mary C. Corporon
VAN COTT BAGLEY CORNWALL & MCCARTHY (SLC)
36 S STATE ST STE 1900
PO BOX 45340
SALT LAKE CITY, UT 84111
(801)532-3333
Email: mcorporon@vancott.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: CJA Appointment

Robert L. Steele
UTAH FEDERAL DEFENDER OFFICE
46 W BROADWAY STE 110
SALT LAKE CITY, UT 84101
(801)524-5877
Email: robert_steele@fd.org
TERMINATED: 05/15/2007
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Public Defender or Community Defender Appointment

Pending Counts	Disposition
None	

Highest Offense Level (Opening)

None

Terminated Counts	Disposition
18:152(3) CONCEAL ASSETS, FALSE OATH AND CLAIMS BRIBERY/False Bankruptcy Declaration (1-2)	All counts dismissed without prejudice per government motion
18:1519 DESTRUCTION,ALTERNATION,FALSIFICATION RCDS FED INVESTIGATION/False Bankruptcy Document (3-5)	All counts dismissed without prejudice per government motion

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18:152(2) CONCEAL ASSETS, FALSE OATH AND CLAIMS BRIBERY/False Bankruptcy Oath (6-7)	All counts dismissed without prejudice per government motion

Highest Offense Level (Terminated)

Felony

Complaints	Disposition
None	

Plaintiff

USA

represented by **Barbara Bearnson**
US ATTORNEY'S OFFICE (UT)
SALT LAKE CITY, UT 00000
(801)325-3230
Email: barbara.bearnson@usdoj.gov
TERMINATED: 12/18/2006
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Cy H. Castle
US ATTORNEY'S OFFICE (UT)
SALT LAKE CITY, UT 00000
(801)325-3214
Email: cy.castle@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Mark Y. Hirata
US ATTORNEY'S OFFICE (UT)
SALT LAKE CITY, UT 00000
(801)325-3239
Email: Mark.Hirata@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
06/23/2008	238	Minute Entry for proceedings held before Judge William F. Downes: Competency Hearing as to Holli Lundahl held on 6/23/2008. Ms. Lundahl is present, with counsel. The court meets with counsel, in chambers. The court takes the bench @ 9:30 a.m. and hears statements from counsel. Evidence is received, testimony is taken. Ms. Corporon requests access to defendant's medical records from HCA in Orange County, California. Ms. Corporon is directed by prepare and submit an order. The court orders defendant be transported (via direct flight) to Carswell, Texas for a full medical exam, with a report due thirty days after defendant's arrival. Mr. Castle to prepare order. After an outburst, Ms. Lundahl is removed from the courtroom. The court finds defendant is not presently competent to stand trial. (Audio CD of proceedings is retained in the Clerk's Office.)Attorney for Plaintiff: Cy Castle, AUSA, Attorney for Defendant: Mary Corporon, Esq. Court Reporter: Laura Robinson. (tab) (Entered: 06/23/2008)

PACER Service Center

Transaction Receipt

PACER Login:		Client Code:	
Description:	Docket Report	Search Criteria:	2:06-cr-00693-WFD Starting with document: 238 Ending with document: 238
Billable Pages:	2	Cost:	0.20

21

CJA, CLOSED

US District Court Electronic Case Filing System
District of Utah (Central)
CRIMINAL DOCKET FOR CASE #: 2:06-cr-00693-WFD-1

Case title: USA v. Lundahl

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84101-1218
(801) 328-8888
TERMINATED: 04/10/2007
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Retained

Mary C. Corporon
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(SLC)
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Robert L. Steele
UTAH FEDERAL
DEFENDER OFFICE
46 W BROADWAY STE 110
SALT LAKE CITY, UT 84101

(801)524-5877
Email: robert_steele@fd.org
TERMINATED: 05/15/2007
LEAD ATTORNEY

"21"

ATTORNEY TO BE NOTICED

Designation: Public Defender or Community Defender Appointment

Pending Counts	**Disposition**
None	

Highest Offense Level (Opening)

None

Terminated Counts	**Disposition**
18:152(3) CONCEAL ASSETS, FALSE OATH AND CLAIMS BRIBERY/False Bankruptcy Declaration (1-2)	All counts dismissed without prejudice per government motion
18:1519 DESTRUCTION,ALTERNATION,FALSIFICATION RCDS FED INVESTIGATION/False Bankruptcy Document (3-5)	All counts dismissed without prejudice per government motion
18:152(2) CONCEAL ASSETS, FALSE OATH AND CLAIMS BRIBERY/False Bankruptcy Oath (6-7)	All counts dismissed without prejudice per government motion

Highest Offense Level (Terminated)

Felony

Complaints	**Disposition**
None	

Plaintiff

USA

represented by **Barbara Bearnson**
US ATTORNEY'S OFFICE (UT)
SALT LAKE CITY, UT 00000
(801)325-3230
Email: barbara.bearnson@usdoj.gov
TERMINATED: 12/18/2006
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

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ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
01/21/2009	266	Minute Entry for proceedings held before Judge William F. Downes: Motion Hearing as to Holli Lundahl held on 1/21/2009 re 264 MOTION to Dismiss *Case Without Prejudice* filed by USA. The Court questioned the USA on the timeliness and reasoning behind the motions. The Court also expressed concern over any of the defendant's property seized by the government. The USA stated that any property seized from the defendant was NOT done at the request of the USA. The government also reported that it believed the property was seized by the state of Idaho.The Court will issue an order for the defendant's release later today, and will also enter, sua sponte, an order directing the USA to pay for the return of the defendant to Salt Lake City via commercial airline. The Court also requested M. Corporan to advise the defendant's family of her release and to remind the defendant of Court orders in place that restrict her filing any Court documents w/out permission in the District of Utah, and possibly the District of Idaho. There are no such restrictions in Wyoming at this time. Attorney for Plaintiff: Cy H. Castle, Attorney for Defendant: Mary Corporon, CJA. Court Reporter: Jamie Hendrich.(Time Start: 9:11 a.m., Time End: 9:31 a.m., Room Judge Downes Chambers.) (ce) Modified on 1/21/2009 to modify whom the attorneys represent (ce). (Entered: 01/21/2009)

PACER Service Center			
Transaction Receipt			
PACER Login:		**Client Code:**	
Description:	Docket Report	**Search Criteria:**	2:06-cr-00693-WFD Starting with document: 266 Ending with document: 266
Billable Pages:	2	**Cost:**	0.20

22

United States District Court
For The District of Utah, Central Division

UNITED STATES OF AMERICA, Plaintiff, vs. HOLLI LUNDAHL, Defendant.	)	Case Nos. 06-CR-00693 WFD & 07-CR-00272 WFD

ORDER DISMISSING CHARGES WITHOUT PREJUDICE AND ORDERING THE IMMEDIATE RELEASE OF THE DEFENDANT

This matter comes before the Court on the Government's Motions to Dismiss filed in each of the captioned cases. Having considered the motions, and having heard argument on the matter, the Court FINDS and ORDERS:

The Government's motions to dismiss are GRANTED; the charges against Ms. Lundahl are hereby DISMISSED without prejudice. The Government is instructed to immediately release Ms. Lundahl from custody and provide her with access to any property which may have been seized pursuant to her federal indictments.

The Court further orders that Ms. Lundahl's counsel, Mary Corporon, shall take all reasonable steps to notify Ms. Lundahl's family members of her release. Ms. Corporon shall remain appointed as counsel pending Ms. Lundahl's successful release

from custody and return of property seized pursuant to her federal indictments. Ms. Corporon shall move this Court to be dismissed from her obligation at such time as her appointment is no longer necessary.

It is so ORDERED.

DATED this 21st day of January, 2009.

William F. Downes
Chief United States District Judge
Sitting by Special Designation

23

US District Court Electronic Case Filing System
District of Utah (Central)
CIVIL DOCKET FOR CASE #: 2:04-cv-00089-PGC

Lundahl v. Robbins, et al
Assigned to: Judge Paul G. Cassell
Demand: $0
Case in other court: US Bkrcy Dist UT, 03-21660
US Bkrcy Dist UT, 03-02401
USCA 10th Circuit, 04-04236
04-04236
Cause: 28:0157 Motion for Withdrawal of Reference

Date Filed: 01/28/2004
Date Terminated: 09/01/2004
Jury Demand: None
Nature of Suit: 423 Bankruptcy Withdrawl
Jurisdiction: Federal Question

Petitioner

Holli Lundahl

represented by **Holli Lundahl**
139868
CACHE COUNTY JAIL
E-3
1225 W VALLEY VIEW STE 100
LOGAN, UT 84321
PRO SE

V.

Respondent

Brian Robbins

Respondent

Source One Mortgage Services

Respondent

California Franchise Tax Board

Respondent

March Fong Eu
Secretary of State and successor in interest

Respondent

Gerald Rosenberg
Commissioner in his personal capacity

Respondent

Eli Lilly

IL 23.4

Respondent

UNITED STATES OF AMERICA

Respondent

Internal Revenue Service

Notice Party

Bankruptcy Clerk's Office represented by **Bankruptcy Clerk's Office**
US BANKRUPTCY COURT 84101
Email:
UTB_Appeals@utb.uscourts.gov
PRO SE

Date Filed	#	Docket Text
01/28/2004	1	Certification of transmission of bankruptcy reference assigned to Judge Dee Benson. No filing fee required. Report to the US Distr. Ct Regarding Plaintiff's Motion for Withdrawal of Reference. (kla) (Entered: 01/29/2004)
01/28/2004	2	Motion by Holli Lundahl to withdraw the reference (kla) (Entered: 01/29/2004)
02/03/2004		Memo of recusal of Judge Dee Benson (kvs) (Entered: 02/03/2004)
02/03/2004		Case reassigned to Judge Paul G. Cassell (kvs) (Entered: 02/03/2004)
02/06/2004	3	NTC of recusal of Judge Dee Benson and reassignment to Judge Paul G. Cassell. cc: atty (kvs) (Entered: 02/06/2004)
03/03/2004	4	Notice of filing re: Certified Copy of Order from the USBC District of Utah Remanding Adversary Proceeding. Bankruptcy case no. 03-21660, Adversary Proceeding no. 03-02401. (tsh) (Entered: 03/03/2004)
09/01/2004	5	Order denying [2-1] motion to withdraw the reference signed by Judge Paul G. Cassell , 9/1/04 cc:atty (tsh) (Entered: 09/03/2004)
09/01/2004		Case closed per order 5 (tsh) (Entered: 09/03/2004)
09/30/2004	6	Notice of Appeal by Holli Lundahl ; Fee Status: NOT PD ; appeals to the USCA for the Tenth Circuit from the Order Entered: 09/03/04 (asp) (Entered: 10/01/2004)
09/30/2004	8	Motion by Holli Lundahl to proceed in forma pauperis on appeal (asp) (Entered: 10/04/2004)
10/01/2004	7	Notice of appeal and certified copy of docket to USCA: [6-1] appeal ; appeal pkts mailed to counsel record (asp) (Entered: 10/01/2004)
10/20/2004	9	Notice of Docketing Appeal Letter from USCA Tenth Circuit Re: [6-1] appeal USCA NUMBER: 04-4236 (asp) (Entered: 10/21/2004)
10/28/2004	10	Certified and transmitted record on appeal to U.S. Court of Appeals: [6-1] appeal ; transmitted original court record Consisting of documents 1-10. (asp) (Entered: 10/28/2004)

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH

CENTRAL DIVISION

HOLLI LUNDAHL, Plaintiff, vs. BRIAN ROBBINS, et al., Defendants.	ORDER DISMISSING CASE Bankruptcy Case No. 03-21660 Adversary Proceeding No. 03-2401 Case No. 2:04 cv 89 PGC

Ms. Lundahl filed this motion to withdraw the reference to the Bankruptcy Court on January 28, 2004. The Bankruptcy Court dismissed Ms. Lundahl's underlying bankruptcy case on December 19, 2003 and this adversary proceeding on December 22, 2003, remanding the matter to the Fourth District Court in Utah. The court will interpret these pleadings as an appeal of the Bankruptcy Court's ruling dismissing this case without prejudice.

Ms. Lundahl filed a notice of appeal on January 5, 2004, and on February 3, 2004, the Bankruptcy Appellate Panel dismissed her appeal for failure to prosecute.

On January 28, 2004, Ms. Lundahl filed the pending motion to withdraw the reference. The court dismisses this proceeding for three reasons: (1) failure to properly complete service; (2) failure to properly prosecute her appeal; and (3) the Bankruptcy Court correctly dismissed this adversary proceeding.

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Bankruptcy Court's Ruling

The Bankruptcy Court properly dismissed Ms. Lundahl's adversary proceeding in this case. Once the Bankruptcy Court dismissed the underlying bankruptcy proceeding, it lacked the jurisdiction to hear this adversary proceeding.[3] Notably the Bankruptcy Court dismissed this proceeding without prejudice and this court does as well.

Conclusion

The court DENIES the motion to withdraw the reference in this case as untimely (#2-1). The court DISMISSES this case without prejudice.

SO ORDERED.

DATED this 1st day of ~~August~~ September, 2004.

BY THE COURT:

Paul G. Cassell
United States District Judge

[3] *See Smith v. Commercial Banking Corp., (In re Smith),* 866 F.2d 576, 580 (3rd Cir. 1989); *in re Statistical Tabulatin Corp.,* 60 F.3d 1286, 1289 (7th Cir. 1995); *Querner v. Querner (In re Querner),* 7 F.3d 1199, 1201-02 (5th Cir. 1993).

tsh

United States District Court
for the
District of Utah
September 3, 2004

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-00089

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Holli Lundahl
PO BOX 833
LEHI, UT 84043

Helene Huff
US BANKRUPTCY COURT
, 84101
EMAIL

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CJA,CLOSED

US District Court Electronic Case Filing System
District of Utah (Central)
CRIMINAL DOCKET FOR CASE #: 2:06-cr-00693-WFD-1

Case title: USA v. Lundahl

Date Filed: 10/04/2006
Date Terminated: 01/21/2009

Assigned to: Judge William F. Downes

Defendant (1)

Holli Lundahl
TERMINATED: 01/21/2009

represented by **D. Bruce Oliver**
180 S 300 W #210
SALT LAKE CITY, UT 84101-1218
(801) 328-8888
TERMINATED: 04/10/2007
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Retained

Mary C. Corporon
VAN COTT BAGLEY CORNWALL & MCCARTHY (SLC)
36 S STATE ST STE 1900
PO BOX 45340
SALT LAKE CITY, UT 84111
(801)532-3333
Email: mcorporon@vancott.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: CJA Appointment

Robert L. Steele
UTAH FEDERAL DEFENDER OFFICE
46 W BROADWAY STE 110
SALT LAKE CITY, UT 84101
(801)524-5877
Email: robert_steele@fd.org
TERMINATED: 05/15/2007
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Public Defender or Community Defender Appointment

Pending Counts	Disposition
None	

Highest Offense Level (Opening)

None

Terminated Counts	Disposition
18:152(3) CONCEAL ASSETS, FALSE OATH AND CLAIMS BRIBERY/False Bankruptcy Declaration (1-2)	All counts dismissed without prejudice per government motion
18:1519 DESTRUCTION,ALTERNATION,FALSIFICATION RCDS FED INVESTIGATION/False Bankruptcy Document (3-5)	All counts dismissed without prejudice per government motion

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18:152(2) CONCEAL ASSETS, FALSE OATH AND CLAIMS BRIBERY/False Bankruptcy Oath (6-7)	All counts dismissed without prejudice per government motion

Highest Offense Level (Terminated)

Felony

Complaints	Disposition
None	

Plaintiff

USA

represented by **Barbara Bearnson**
US ATTORNEY'S OFFICE (UT)
SALT LAKE CITY, UT 00000
(801)325-3230
Email: barbara.bearnson@usdoj.gov
TERMINATED: 12/18/2006
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Cy H. Castle
US ATTORNEY'S OFFICE (UT)
SALT LAKE CITY, UT 00000
(801)325-3214
Email: cy.castle@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Mark Y. Hirata
US ATTORNEY'S OFFICE (UT)
SALT LAKE CITY, UT 00000
(801)325-3239
Email: Mark.Hirata@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
06/23/2008	238	Minute Entry for proceedings held before Judge William F. Downes: Competency Hearing as to Holli Lundahl held on 6/23/2008. Ms. Lundahl is present, with counsel. The court meets with counsel, in chambers. The court takes the bench @ 9:30 a.m. and hears statements from counsel. Evidence is received, testimony is taken. Ms. Corporon requests access to defendant's medical records from HCA in Orange County, California. Ms. Corporon is directed by prepare and submit an order. The court orders defendant be transported (via direct flight) to Carswell, Texas for a full medical exam, with a report due thirty days after defendant's arrival. Mr. Castle to prepare order. After an outburst, Ms. Lundahl is removed from the courtroom. The court finds defendant is not presently competent to stand trial. (Audio CD of proceedings is retained in the Clerk's Office.)Attorney for Plaintiff: Cy Castle, AUSA, Attorney for Defendant: Mary Corporon, Esq. Court Reporter: Laura Robinson. (tab) (Entered: 06/23/2008)

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Transaction Receipt

PACER Login:		Client Code:	
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Billable Pages:	2	Cost:	0.20

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HOLLI LUNDAHL
DOB: [redacted]

I have been asked to do an evaluation on Holly Lundahl because of high blood pressure, heart issues, and malignant hypertension.

An EKG was performed. She has left atrial enlargement and premature atrial contractions.

I was also authorized to do a stress test on the treadmill if it was contraindicated. Her blood pressure today contraindicates this from being done.

This is a woman who has a past medical history of a myocardial infarction in 1995. Allegedly a drug caused it. She had CVA's in 2007 and 2008. She has had breast and skin cancer as well. She also has a history of physical trauma which damaged her spinal cord and gave her paralysis for awhile.

She has had a mastectomy, two back surgeries, two hip surgeries, and some type of gastric surgery.

She does have episodes of chest discomfort. This is located in the epigastric substernal area with radiation towards the left side of the chest and into the left arm. The severity of this varies. The strongest feels like lactic acid would feel when you have overworked a muscle. It will last somewhere between 10 and 30 minutes. Nitroglycerin may relieve it after about 20 minutes.

If she walks quickly, she will get out of breath really fast. She will have a few episodes of orthopnea. She has a few episodes of PND. She does not have a supine cough.
She does have episodes of palpitations.

Additional symptoms are that she does have bad eyes and her vision tends to be blurry. She always feels cold. It almost sounds like she has some form of hypoglycemia. If she eats every couple of hours she does much better. She develops charlie horses at night. She has difficulty in general with sleeping.

She has had high blood pressure for a fair period of time. One of the lowest pressures was about 190/115.

Her current medications include lisinopril 10 mg bid, amlodipine 10 mg bid, and aspirin 1 tablet tid. At one time she was on hydrochlorothiazide and clonidine. She has not been on hydralazine. She has not been on a beta-blocker. Other than the amlodipine, she has not been on a calcium-channel blocker.

On examination her weight is 143 pounds. She is 5 foot 8 inches tall. Her blood pressure was 230/110. Her pulse was 140 and irregular with extrasystoles. She showed no cyanosis. eyes have no corneal arcus. There is an abnormal light reflex from the arteries. They are all visibly narrowed with significant AV nicking. I do not see hemorrhages or exudates. There is no jugular venous distention upright. Supine it is 4 cm. Her respirations are unlabored and clear to auscultation. She does have an S4 gallop. No rub. no bruits. The femorals and pedals are 1-2+ bilaterally. There is trace ankle edema. Her left foot is cooler than the right. GI exam was unremarkable with no masses or tenderness, and no hepatosplenomegaly. Her gait is unremarkable. The digits and nails show no clubbing or cyanosis. The skin is warm and dry although the left foot is cooler. No signs of venous stasis. She is alert and oriented. No dysarthria. She comprehends and understands. Mood and affect are calm.

EVALUATION AND MANAGEMENT:

1. Hypertension. She certainly has high blood pressure. Today her blood pressure is 230/110. At that level, I think it is unsafe for her to undergo and exercise stress test.
2. Shortness of breath. She has significant shortness of breath when she exerts herself very much. She also has some subtle symptoms when she is supine. She will get a little bit of orthopnea and PND from time to time. She does not have much peripheral edema. It is mostly at the sock line. I think her shortness of breath is related to cardiac factors. Usually with people with severe hypertension, their end diastolic pressures are so high that mus pressure is transferred back to the lungs and a pulmonary capillary wedge pressure rises, and it causes significant shortness of breath. Thus I would have to label her as having congestive heart failure. I believe this is diastolic heart failure.
3. Status post CVA. It seems like the major problem that she has with this is related to her visual system.
4. Frequent premature atrial contractions.

To summarize. I believe she does have congestive heart failure related to diastolic dysfunction, and is Functional Class II-III. She continues to have severe hypertension.

Kim J. Coffman, MD, FACC

Kim J. Coffman, MD, FACC
Cardiovascular Medicine

KJC/lb

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April 8, 2011

Ms. Holli Telford
10621 S. Old Hwy 191
Malad City, Idaho 83252

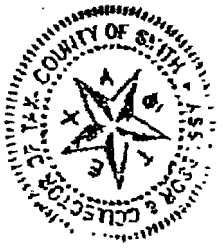
Dear Ms. Telford:

Congratulations, we accepted your bid on account #1000000206000013090. I am aware that Dallas County reports how many persons made a bid on a tax sale property at the conclusion of their sales. For full disclosure, you were the sole bidder on the above stated resale property. Pursuant to § 34.05 (d) our acceptance of your bid is conclusive and binding. We shall now prepare a deed conveying the property to you. When the deed has been executed, we will exercise your letter of credit.

In response to your inquiry regarding the commencement of the redemption period on the property, if any, the property was conveyed to the County entities by a sheriff's deed on November 5, 2010 after being struck off to the County at the failed sale on November 2, 2010. As you indicated in your phone message on April 6, 2011, Texas Tax code § 34.23 (b) provides that the owner of property sold for taxes to a taxing unit may not redeem the property from the taxing unit after the property has been resold. You are correct that the property has now been resold to you upon our acceptance of your bid. So it would appear that the original owners cannot now redeem the property, and if they could, they must redeem by May 4, 2011, 180 days from the date the sheriff deeded the property to the county entities.

In addition, since you been twice notified by phone on April 4, 2011 that our office accepted your bid on the above stated property and that this resale is conclusive and binding under section 34.23; you may now occupy and possess the property as the new purchaser. You are also permitted to make improvements on the property.

Ordinarily our office does not issue bid acceptance letters but you have requested an exception as a result of your letter of credit and the requirements of your bank funding this transaction. Therefore I affix my signature hereto and the seal of our office as verification that you were the successful purchaser of the property bearing account #1000000206000013090 and that no redemption appears to place your loan securing this property at risk. I thank you for providing me with a "format letter" which includes the necessary language that will satisfy your bank. Should you have any further questions, please feel free to contact me by phone or by email.



Lois Mosley

IFTS Message Print - Message Inquiry Display Dialog Box

User: jkearns Bank: America First CU Date: 08/05/11 18:01:25

Message Status: PNRM
Seq Num: 20110600031100 Related Seq Num: 20110600031200
Pay Method: FED Output Message ID: FTI0811
Date Recvd: 03/01/2011 13:19:57 Value Date: 03/01/2011

Sender: 324377516
Amount: $4,214.77
Debit info --
Account: 205120
Name: BRANCH WIRE GL
Addr1: ACCOUNTING DEPT
Addr2: MANAGEMENT CENTER
Addr3:
Addr4:

Credit info --
Account: 324377516
Name: JPMORGAN CHASE BANK, NA
Addr1:
Addr2:
Addr3:
Addr4:

Advice: Dept: DEPT1 Trancode: DOMESTIC
Category: TELLER Linesheet: Create Template:

Message Text:

Sndr Info	{1500}02 P *
Msg Type	{1510}1000
IMAD	{1520}20110301L4B74L2C000093
Amount	{2000}000000421477
Sender DI	{3100}324377516*
Sndr Ref	{3320}20110600031100*
Rcvr DI	{3400}111000614*
Bus Func	{3600}CTR*
BNF	{4200}D0440002020*
	LINEBARGER GOGGAN BLAIR SAMPSON LLP*
RFB	{4320}0574609010767557*
ORG	{5000}D205120*
	BRANCH WIRE GL*
	ACCOUNTING DEPT*
	MANAGEMENT CENTER *
OGB	{5100}D24555120-1*
	HOLLI TELFORD*
	10621 S HIGHWAY 191*
	MALAD CITY*
	ID 83252*

AMERICA FIRST
CREDIT UNION

HOLLI TELFORD
10621 S OLD HWY 191
MALAD CITY, ID 83252

To the clerk of the court:

Please find attached the wire transcript of America First Credit Union identifying the wire transfer to the law offices of Linebarger Goggan Blair Sampson, LLP of Tyler, Texas in March of 2011 in the amount of $4,214.77 as credited from the Loan Proceeds of America First Credit Union Member, Holli Telford.

If you have any further questions please feel free to call.

Krisan Peacock
Lead Teller
America First Credit Union-North Logan
(435)792-7520

Gmail

Holli Telford <hollitelford@gmail.com>

the original deed

4 messages

Deborah Milling <Deborah.Milling@lgbs.com> Tue, Apr 19, 2011 at 11:37 AM
To: Holli Telford <hollitelford@gmail.com>

Hi Holli,

I did actually mail the original bill of sale and Deed on property you purchased at the March sale. The post office returned the envelope back. Will you please verify your mailing address?

Thanks a lot!

Deborah Milling

Area Manager
Linebarger, Goggan, Blair and Sampson, LLP
1517 W. Front Street, Ste. 202
Tyler, TX 75702
903-597-2897 x.2121
903-597-2402 fax
deborah.milling@lgbs.com

Holli Telford <hollitelford@gmail.com> Tue, Apr 19, 2011 at 3:32 PM
To: Deborah Milling <Deborah.Milling@lgbs.com>

send to: 10621 S. Old Hwy 191
Malad City Idaho 83252
what address did you mail it to? Please forward me the returned envelope so that I may take issue with the postal service if they are returning mail directed to me. Also I have not received the executed deed of trust on the Kelley St. lot that I purchased, and the county still shows that the property is in the name of the original owner. Can you see where this is too? Thanks. Holli
[Quoted text hidden]

Holli Telford <hollitelford@gmail.com> Tue, Apr 19, 2011 at 10:14 PM
To: Deborah Milling <Deborah.Milling@lgbs.com>

Gmail

Holli Telford <hollitelford@gmail.com>

document for insurance

2 messages

Deborah Milling <Deborah.Milling@lgbs.com> Tue, Apr 5, 2011 at 12:38 PM
To: Holli Telford <hollitelford@gmail.com>

Holli,

The document will be coming from Charlene Fugler at our office and when you acknowledge that you have received the document, I will put the original in the mail.

Thanks.

Deborah Milling

Area Manager
Linebarger, Goggan, Blair and Sampson, LLP
1517 W. Front Street, Ste. 202
Tyler, TX 75702
903-597-2697 x.2121
903-597-2402 fax
deborah.milling@lgbs.com

Holli Telford <hollitelford@gmail.com> Tue, Apr 5, 2011 at 2:17 PM
Draft To: Deborah Milling <Deborah.Milling@lgbs.com>

Please do not put the original in the mail. La
[Quoted text hidden]

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3 2011 00031847

THE STATE OF TEXAS § REDEMPTION DEED

COUNTY OF SMITH §

KNOW ALL MEN BY THESE PRESENTS that SMITH COUNTY, TYLER INDEPENDENT SCHOOL DISTRICT, CITY OF TYLER, AND TYLER JUNIOR COLLEGE, by and through its duly elected officials ("GRANTOR") as authorized by Section 34.05, Texas Property Tax Code, for and in consideration of the sum of TWELVE THOUSAND, SIX HUNDRED, EIGHT DOLLARS AND 36/100 ($12,608.36) AND OTHER GOOD AND VALUABLE CONSIDERATION, in hand paid by **PAUL W. KELLY** (GRANTEE") the receipt of which is hereby acknowledged and confessed, has conveyed and quitclaimed and by these presents do convey and quitclaim unto said grantee all right, title and interest of the SMITH COUNTY, TYLER INDEPENDENT SCHOOL DISTRICT, CITY OF TYLER, AND TYLER JUNIOR COLLEGE, in the property herein conveyed, acquired by tax foreclosure sale heretofore held in Cause No.22,107-C, styled Tyler Independent School District vs. Paul Kelly, Et Al, said property being described as:

BEING 0.43 ACRES PART OF THE J. CAUBLE SURVEY, AS DESCRIBED IN DEED RECORDED IN VOLUME 1551, PAGE 735, ON INSTRUMENT FILED OCTOBER 30, 1975, AND FINAL DECREE OF DIVORCE FILED FEBRUARY 19, 1993, CAUSE #92-2532F, SMITH COUNTY TEXAS, AND BEING FURTHER IDENTIFIED ON THE TAX ROLL AND RECORDS OF SMITH COUNTY UNDER ACCOUNT NUMBER 100000020600013090.

This conveyance is made and accepted subject to the following matters to the extent that the same are in effect at this time: any and all rights of redemption, restrictions, covenants, conditions, easements, encumbrances and outstanding mineral interests, if any, relating to the hereinabove mentioned County and State, and to all zoning laws, regulations and ordinances of municipal and/or governmental authorities, if any but only to the extent that they are still in effect, relating to the hereinabove described property.

TO HAVE AND TO HOLD said premises, together with all and singular the rights, privileges and appurtenances thereto in any manner belonging unto the said **PAUL W. KELLY,** his heirs and assigns forever, so that neither SMITH COUNTY, TYLER JUNIOR COLLEGE, AND TYLER INDEPENDENT SCHOOL DISTRICT, and any person claiming under it shall at any time hereafter have, claim or demand any right or title to the aforesaid premises or appurtenances, or any part thereof.

Grantee accepts the property in "AS IS" condition and subject to any environmental conditions that might have or still exist on said property.

Post judgment taxes and taxes for the current year are assumed by Grantee.

IN TESTIMONY WHEREOF, the taxing authorities herein have caused these presents to be executed this the 12 day of July, 2011.

SMITH COUNTY for itself and the STATE OF TEXAS

Joel Baker

SMITH COUNTY JUDGE

STATE OF TEXAS

COUNTY OF SMITH

BEFORE ME, the undersigned authority, on this day personally appeared The Honorable **Joel Baker,** County Judge, of the State of Texas, County of Smith known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purpose and consideration therein expressed and in the capacity therein stated.

Given under my hand and Seal of Office this 12 day of July, 2011.

Glinda Mae Howard

NOTARY PUBLIC, in and for the STATE

OF TEXAS, my commission expires:

3-15-2012

(Seal)

GLINDA MAE HOWARD
Notary Public
State of Texas
My Comm. Expires 03-15-2012

Grantee: PAUL W. KELLY
1618 WOLFORD
TYLER TX 75702

Return to: Perdue, Brandon, Fielder, Collins & Mott, L.L.P
P.O. Box 2007
Tyler TX 75701

Filed For Record in:
Smith County, Texas
On Jul 20,2011
at 11:09A
Receipt #: 584711
Recording: 24.00
Doc/Num : 00031847
Doc/Type: Recordings - Land
Deputy - Cheryl Cardinal

I hereby certify that this
instrument was filed and duly
recorded in the Official
Records of Smith County, Texas

Karen Phillips
County Clerk

Click to View Map **Electronic Online Protest** Click to Print This Window

2012 Ownership Data			
PIN#:	043056		
Account:	100000020600013090		
Owner:	KELLY PAUL W		
Address:	1618 WOLFORD		
City:	TYLER	**Zip1:**	75702
State:	TX	**Zip2:**	0000

Deed Information	
Book:	
Page:	
Recd. Date:	7/20/2011
Recd. Info:	DEED 31847

Jurisdictions/2012	Est Taxes
SMITH COUNTY	$45.23
TYLER ISD	$191.99
SCESD #2	$11.82

For Actual Tax Levy contact Gary Barber Tax Assessor/Collector at (903) 590-2920. Tax amounts shown are Estimates prepared by Smith County Appraisal District

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JUSTIN LYNN

RETAILER/BROKER/INSTALLER
TDHCA LICENSE# MHDRET00035729
5215 SANGER AVENUE
Post Office Box 7067
Waco, Texas 76714-7067
Telephone (254) 399-0399

Facsimile (254) 399-0160

Email justin@lynnprop.com

April 12th, 2010

Re: Purchase of Manufactured Home
1994 Patriot/Heritage Park
TEX0503873/74
PTX1966A/B

Dear Ms. Teleford:

Please accept this letter as receipt of payment for the manufactured home described above. Your wire transfer has been received and applied. Attached you will find an Application for Statement of Ownership & Location, which needs to be signed & notarized. Please scan and e-mail back signed document, retain a copy for your records and return the original to the Post Office Box listed above so it can be properly recorded with the State of Texas. Also attached, is the signed purchase agreement by both parties, as well as the Texas Title Detail Information Sheet, giving you information about the home that is vital to your insurance company. If you should happen to have any questions, please give me a call or e-mail me at your convenience. Thank you for your time and concern in this matter. Your business is greatly appreciated.

Sincerely,

Justin Davis Lynn
Retailer/Broker/Installer

Enc. 4

MEMBER COPY

AMERICA FIRST

Members come first.

AFCU MEMBER WIRE TRANSFER

DATE 4/12/10

MEMBER NAME TELFORD ACCOUNT# 7322829

IDENTIFICATION (PICTURE)# STEVE OTHER CTI

WIRE TO (Institution name) INDEPENDENT BANK IS BANK ONLINE? Y

BANK ABA # 1119 - 1632 - 6

$ AMOUNT _____ FEES $ 8.00

BY ORDER OF TELFORD PHONE # 469-522-9725

TELEGRAPHIC ABBREVIATION INDP BK MCKINNEY

DESTINATION BANK INFORMATION (CREDIT TO) _____
Name & Account Number

JUSTIN DAVIS LYNN 1000049450
Address

PURCHASE PATRIOT/HERITAGE PARK MANUFACTURED HOME/
Address

_____
Address

(FOR FURTHER CREDIT TO) _____
Name & Account Number

_____
Address

_____
Address

PREPARED BY KC BRANCH 01

APPROVED BY _____

S. Telford
MEMBER SIGNATURE

TRACE # 20100412@MGFNP310236

TRANSACTION		ACCT.#	SUFFIX	AMOUNT	FOLI	TRANSACTION		ACCT.#	AMOUNT	DESC.
SHARE TRANSFER DECREASE ACCT.	4120		7		WRTSF	OTHER GENERAL LEDGER	4610	110100		10010
SHARE TRANSFER DECREASE ACCT.	4120		7		FEEWR	OTHER GENERAL LEDGER	4610	440900		10010

AFCU Form #437 08/09

IRWIR

04/12/2010 Received

4/12/10 CONFIRMED BY SAMANTHA THAT WIRE HAS BEEN RECEIVED INTO JUSTIN'S ACCOUNT @ INDEPENDENT BANK - TEXAS (254-399-6366 (Phone #))